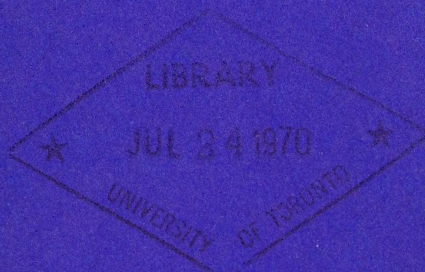


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*Legislative assembly, Committee*

**The First Report  
of the Select Committee  
on Election Laws**



**February, 1969**







Legislative assembly. [Committee]

**The First Report  
of the Select Committee  
on Election Laws**

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*To The Members of The Legislative Assembly of Ontario:*

1. The Select Committee on Election Laws herewith presents its first report.

MEETINGS

2. The Committee held an organizational meeting on 6 September, 1968, and five other meetings: 8 and 9 October, 1968, 18 November, 1968, 7 January, 1969, and 3 February, 1969.

PLAN OF WORK

3. The electoral law of Ontario is found principally in *The Election Act*, R.S.O. 1960, c. 118; *The Voters' Lists Act*, R.S.O. 1960, c. 420; *The Controverted Elections Act*, R.S.O. 1960, c. 65; *The Municipal Act*, R.S.O. 1960, c. 249; and the various schools Acts.

4. *The Election Act* and *The Controverted Elections Act* had their origins in the first Parliament of Ontario, and in the Statutes of the United Kingdom. Although they have been amended from time to time during the intervening years, they have never been subject to a complete review and revision. As a result, the legislation contains many anachronisms and anomalies which make it hard for all concerned—candidates, electors and electoral officials—to ascertain their rights, responsibilities and procedures.

5. At its first meeting, the Committee decided to divide its work into phases, the first leading to a report to the 1969 Session of the Assembly, the second and subsequent phases leading to reports to the 1970 Session of the Assembly:

6. PHASE I—*Preparation of a Report for Submission to the 1969 Session of the Legislature*—this phase of the work of the Committee is now completed. It was designed to present the Assembly with a Bill which will, *inter alia*:

- (i) eliminate anachronisms and anomalies so far as may be possible;
- (ii) provide a readily understandable statement of the rights responsibilities and procedures of candidates, electors and electoral officials; and
- (iii) embody certain technical improvements in the electoral process, all without establishing any new principles.

7. Having in mind the time-consuming volume of printing and other preparations for a general election, early introduction and enactment of the proposed new Bill will insure that the technical and related improvements suggested in paragraph 6 could become operative in a Provincial general election held as early as the latter part of 1969.

8. PHASE II — *The Preparation of a Report for the 1970 Session of the Legislature*—the electoral process is central to the requirements of a modern democracy. It merits careful consideration of matters of principle. These include:

- (i) definition of the franchise, particularly with respect to the age qualification of voters;
- (ii) election finances—the nature and extent of disclosure of revenues and expenses to be made by candidates, parties, and others; and the machinery required with respect thereto;
- (iii) alternative methods for the preparation of the electoral roll—the electoral law in Canada and Ontario has provided for a number of different procedures for the establishment of the electoral roll, placing varying degrees of responsibility on the qualified elector to insure that his name is engrossed on the roll. In the Confederation (1867) and early post-Confederation Provincial and Federal general elections, the franchise involved property qualifications, and municipal assessment rolls sufficed for the purpose. As the franchise was extended, systems were introduced for registration supplemented by opportunities for judicial revision of the roll. These systems placed a considerable onus upon the elector and it is estimated the names of only some fifty to sixty percent of qualified voters appeared on the electoral rolls thus prepared. The system of personal enumeration after dissolution was introduced in certain kinds of electoral districts before World War I. By the late 1930's, this system—apparently uniquely Canadian—had become applicable to most electoral districts in most jurisdictions. The Committee's preliminary studies of alternative methods of preparing the electoral roll included voter registration (most jurisdictions in the U.S.A.), permanent lists (United Kingdom) and the continuous electoral roll (Australia). Although the Committee tends to view enumeration after dissolution as probably the best and most economical system, it wishes to give further study to alternative methods;
- (iv) indication of party affiliation of candidates on ballot papers—it was contended by some Members that indication of party affiliation on ballot papers would assist the electorate, who are often as much concerned with party issues as they are with the merits of individual candidates. Simple though it might seem, the adoption of this principle would also require the development of some machinery for the recognition of candidates by political parties, and the recognition of parties by the Assembly; and
- (v) a review of the continuing relevance or otherwise of the provisions of *The Controverted Elections Act*, and study of the introduction of appropriate alternatives thereto.

9. *Public Hearings and Visits*—The Committee has invited submissions of fact and opinion by interested persons. The invitation was conveyed by advertisements in *The Ontario Gazette* and selected daily



and weekly newspapers in Ontario. The number of briefs submitted by the closing date—31 December, 1968—was disappointingly small. The Committee has extended the date until 30 April, 1969. The Committee expects to hold public hearings and invite oral representations during the period following the prorogation of the 1969 Session of the Assembly.

10. Sub-committees took advantage of the opportunity to observe the electoral process in Erie County (New York), and in Detroit, Lake Forest and Hamtramck (Michigan) during the recent Presidential and regional elections in the United States. Their reports contained a great deal of valuable information, and suggested that as a basis for the preparation of electoral rolls, voter registration as practised in these jurisdictions would be both more costly and less democratic than the system of enumeration now employed in Ontario. The Committee is grateful for the co-operation so generously furnished by electoral officials in these United States jurisdictions.

11. Interesting innovations in election law have taken place, or are under study in the jurisdictions of Canada and Quebec. The second phase of the Committee's work is likely to involve visits to Ottawa and Quebec City.

12. *Subsequent Phases* — The desirability of achieving uniformity of electoral law as between the federal, provincial and local levels was appreciated by the Committee from the outset. It was recognized with regret that absolute uniformity between the federal and provincial jurisdictions would require a constitutional amendment fixing responsibility for the electoral process at one or other level, as is the case in the United States of America. So as to minimize confusion, the Committee recognized that Ontario should not depart in an unnecessarily radical way from the procedures adopted by the Parliament of Canada. It was observed that improvements made by one jurisdiction tended to be enacted subsequently by others. The Province is, however, constitutionally competent to arrange uniform and harmonious electoral provisions for itself and its municipalities. Difficulties arise from differences in the Provincial and municipal franchises. Having regard for Section 93 of the *British North America Act*, the Committee foresees that there will be continuing difficulty in providing the required distinction between separate school supporters and public school electors in municipal lists, when considering the possibility of using a single list for both Provincial and municipal elections. The Minister of Municipal Affairs has appointed a committee to advise him about changes in the election provisions of *The Municipal Act*. When the Select Committee on Election Laws has completed the first and second phases of its work, its terms of reference suggest that it can then turn to the study of the election provisions of *The Municipal Act* and related Acts, should this appear desirable.

#### RECOMMENDATIONS

13. Most of the present recommendations of the Committee will be found in the draft Bill, annexed to this report as Schedule III.

14. With respect to Schedule III, the Committee emphasizes that the proposed changes in the electoral law of Ontario are designed to meet the objects set forth in paragraph 6 above. It further emphasizes that this Bill proposes re-enactment of some provisions of the existing *Election Act* and *Voters' Lists Act*. That the Committee proposes such re-enactment does not mean that it has given full consideration to each such section, or that every such section is accompanied by its endorsement. The Committee could have proceeded by way of suggesting separate Bills to amend *The Election Act*, R.S.O. 1960, c. 118, and *The Voters' Lists Act*, R.S.O. 1960, c. 420, without any re-enactment of existing provisions. It was agreed, however, that this would have created a hopelessly confusing combination of statutes. Accordingly, the Committee recommends the draft Bill, providing for both amendment and re-enactment of existing legislation without any limitation upon its further consideration with respect to re-enacted sections.

15. The principal changes now proposed, and incorporated in the draft Bill are summarized thus, and the references are to the sections in the draft Bill (Schedule III):

- (i) Provision for appointment of "permanent" returning officers—the Committee is convinced that the efficiency of the electoral process will be greatly enhanced by appointment of what have been referred to as "permanent" returning officers. The term "permanent" applies only to the nature of their appointment, not to the manner of their remuneration. A schedule would be provided in the regulations, setting forth the fees payable to returning officers for the satisfactory completion of set tasks, annually and at elections. (Cf. ss. 4).
- (ii) Abolition of Election Boards—it is proposed that the few functions now remaining to Election Boards should be assigned either to returning officers or the Chief Election Officer. Most important of these is the proposal that the revision should be conducted by returning officers. (Cf. s. 23-25).
- (iii) A fixed day of the week for nomination day and election day—Thursday is proposed for nomination day, polling day to be the Thursday two weeks later, except where that Thursday selected falls on a statutory holiday. After considering all the alternatives the Committee was convinced that the selection of these days would make for the most efficient conduct of the electoral process in all its aspects, particularly with relation to satisfactory provision for voting at the Advance Poll. (Cf. s. 7).
- (iv) It is proposed that judges of the federal and provincial courts, clerks of the peace and Crown attorneys will no longer be disqualified from voting at Provincial elections.
- (v) Enumeration by two enumerators in all polling subdivisions—the Committee is convinced that enumeration will be improved by providing for two enumerators, representative of opposed political interests, in all polling subdivisions. (Cf. ss. 12-16).



- (vi) Extension of proxy voting—the right to vote by proxy should be extended to members of the Canadian forces, certain workers in the transportation industry and persons medically certified to be incapable of attending at the poll. (Cf. s. 37).
- (vii) New format for the ballot—a new format for the ballot is proposed, together with new requirements for the manner in which the ballot is to be marked to indicate the elector's choice. This is shown in Schedule II. The Committee is convinced that this format, partially derived from the form of ballot used in elections in Belgium, will greatly reduce the number of rejected (spoiled) ballots. (Cf. s. 53).
- (viii) Elimination of vouching in most electoral districts—this practice has caused many difficulties on election day and makes for many possible abuses. It is proposed that vouching should be eliminated in all electoral districts, except those containing polling subdivisions which lie within provisional judicial districts in territories without municipal organization, where it is more difficult for the elector to insure that his name is entered on the polling list by way of enumeration and revision. (Cf. s. 80).
- (ix) Extension of provisions for voting at Advance Poll—it is proposed that the Advance Poll be held on the Monday and Saturday next preceding election day, and that any person who swears or affirms that he will be unable to vote in his own subdivision on election day may vote at the Advance Poll. It is proposed that, wherever possible, polling places for Advance Polls should be established in public buildings providing access to persons in wheel chairs. (Cf. s. 72).
- (x) Elimination of provisions against certain offences and corrupt practices—the existing legislation provides for the creation of certain offences and the determination of certain corrupt practices which may have been relevant to the days before the secret ballot. The Committee believes that these are no longer pertinent to the electoral process in the Ontario of 1969, which enjoys a well informed electorate of high integrity. Further, some of these sections have been clearly *ultra vires* ever since the Parliament of Canada occupied the field of criminal jurisdiction.
- (xi) Embodiment of these changes in a legislative framework set forth in relation to election chronology.

16. The Committee recommends that in the printing of the pamphlet copies of the proposed new Act, for the guidance of candidates, returning officers and others, the Chief Election Officer should incorporate the relevant sections of the Criminal Code as an appendage.

#### MEMBERSHIP AND TERMS OF REFERENCE

17. The membership and terms of reference for the Committee were set forth in an Order of the House 23 July, 1968, reproduced as Schedule I.

## STAFF

18. The Committee has been fortunate in securing the services of Roderick Lewis, Q.C., Chief Election Officer, as Chief Consultant; F. A. Braybrook, Department of Municipal Affairs, Consultant; D. Donald Diplock, Q.C., Counsel; Mrs. Mary Brand, Clerk; Miss Cleo McElroy, Secretarial Assistant.

## BACKGROUND INFORMATION

19. The Committee was assisted by the co-operation of the Electoral Officers of Canada and the Provinces, in furnishing copies of the Election Laws of their several jurisdictions; by the opportunity to study transcripts and minutes of meetings of the Select Committee on Election Laws appointed on 8 July, 1966; by an excellent bibliography, furnished by Miss J. Kerfoot, Legislative Librarian; the Report of the Federal Committee on Election Expenses, 1966; the Report of the Representation Commissioner (Canada) on methods of Registration of Electors and Absentee Voting, 1968; and a most helpful commentary on Election Law in Ontario, furnished by W. B. Common, Q.C., formerly Deputy Attorney General of Ontario and Acting Assistant Chief Election Officer for the Province.

EDWARD DUNLOP,

*Chairman,*

Select Committee on Election Laws.



# Schedule I

On motion by Mr. Robarts, seconded by Mr. MacNaughton,

*Ordered*, That a Select Committee of this House be appointed to continue the review of the terms and provisions of the election laws and any related Acts and regulations, in the light of modern needs, practices and concepts, for the proper representation of those qualified to vote, and to report its findings and recommendations to this Assembly.

And that the Select Committee have authority to sit during the interval between Sessions and have full power and authority to employ counsel and such other personnel as may be deemed advisable and to call for persons, papers and things and to examine witnesses under oath, and the Assembly doth command and compel attendance before the said Select Committee of such persons and the production of such papers and things as the Committee may deem necessary for any of its proceedings and deliberations, for which purpose the Honourable the Speaker may issue his warrant or warrants.

And the said Committee to consist of thirteen members to be composed as follows:—

*Mr. Dunlop* (Chairman), *Messrs. Apps, Belanger, Bernier, Caruthers, Ferrier, Hodgson* (York North), *Newman* (Windsor-Walkerville), *Rollins, Singer, Smith* (Simcoe East), *Smith* (Nipissing) and *Young*.





## Schedule II

1	WM R.	BROWN	
2	FRANK	HAMMOND	
3	JOSEPH	O'NEILL	
4	JOHN S.	WILLIAMS	





## Schedule III

### The Election Act, 1968-69

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

#### INTERPRETATION

1. In this Act,

Interpre-  
tation

- (a) "advance poll" means a poll held under section 70;
- (b) "by-election" means an election other than a general election;
- (c) "candidate at an election" and "candidate" mean a person elected to serve in the Assembly and a person who is nominated as a candidate at an election or is declared by himself or by others to be a candidate on or after the date of the issue of the writ or after the dissolution or vacancy in consequence of which the writ has been issued;
- (d) "corrupt practice" means any act declared to be a corrupt practice by any law in force in Ontario;
- (e) "election" means an election of a member or members to serve in the Assembly;
- (f) "election court" means a court constituted under *The Controverted Elections Act* for the trial of a petition or a summary trial court constituted under that Act; R.S.O. 1960,  
c. 65
- (g) "electoral district" means an electoral district as set out in *The Representation Act, 1966*; 1966, c. 137
- (h) "general election" means an election in respect of which election writs are issued for all electoral districts;

- (i) "official agent" means the agent appointed by a candidate under section 44;
- (j) "polling list" means the list of voters furnished to a deputy returning officer by the returning officer in accordance with this Act;
- (k) "polling subdivision" means a polling subdivision established by the returning officer under section 8;
- (l) "prescribed" means prescribed by the Lieutenant Governor in Council or by the Chief Election Officer;
- (m) "residence", and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which whenever he is absent he has the intention of returning, subject to the following rules:
  1. The place where a person's family resides shall be deemed to be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
  2. The place where a single person occupies a room or part of a room as a regular lodger or to which he habitually returns, not having any other permanent lodging place, shall be deemed to be his residence.
  3. No person shall be deemed to be ordinarily resident in quarters or premises that are generally occupied during some or all of the months of May to October only and generally remain unoccupied during some or all of the months of November to April unless,
    - a. he is occupying such quarters in the course of and in the pursuit of his ordinary gainful occupation, or
    - b. he has no quarters in any other electoral district to which he might at will remove.
  4. The place where a person, otherwise qualified as an elector, resides for the purpose of attending a post-secondary educational institution, may be deemed to be his residence for voting purposes;



- (n) "scrutineer" means any person at least sixteen years of age who is appointed by a candidate or his official agent to represent the candidate in a polling place. R.S.O. 1960, c. 118, s. 1; R.S.O. 1960, c. 420, s. 1, cl. (b), *amended*.

**2.—**(1) Except where otherwise provided, an oath for the purposes of this Act may be sworn before a justice of the peace, <sup>Oaths, who to administer</sup> a commissioner for taking affidavits or a notary public.

(2) Returning officers and election clerks may administer <sup>Idem</sup> any oath required by this Act, and deputy returning officers and poll clerks may administer any such oath except an oath to be administered to the returning officer.

(3) Every person administering an oath under or for the purposes of this Act shall administer the oath gratuitously. <sup>No charge for administering oaths</sup> R.S.O. 1960, c. 118, s. 8, *amended*.

## PART I

### APPOINTMENTS

#### CHIEF ELECTION OFFICER

**3.—**(1) The Lieutenant Governor in Council shall appoint a Chief Election Officer, and may appoint an Assistant Chief Election Officer. <sup>Appointment of C.E.O. and A.C.E.O.</sup>

(2) The Chief Election Officer shall consult with, advise and supervise the returning officers, deputy returning officers and poll clerks in the performance of their duties, and, where necessary, shall visit in person and consult with the returning officer with a view to facilitating the preparation of the lists and the carrying out of this Act. <sup>Powers and duties of C.E.O.</sup>

(3) In the absence or illness of the Chief Election Officer or if the office is vacant, the Assistant Chief Election Officer shall act in his place and, while so acting, possesses the like powers and shall perform the like duties as the Chief Election Officer. <sup>Powers and duties of A.C.E.O.</sup>

(4) Where, in the opinion of the Chief Election Officer, an emergency exists, for which no provision is made, he may give such directions as he considers proper and anything done in compliance with any such direction is not open to question, but the Chief Election Officer shall immediately give notice of any such direction to any candidate whom he thinks may be affected by such direction. R.S.O. 1960, c. 118, s. 4, *amended*. <sup>In cases of emergency</sup>

Clerical  
assistance

(5) The Chief Election Officer may provide for such clerical and other assistance as is necessary in the performance of his duties, and the Lieutenant Governor in Council may authorize the issue of accountable warrants from time to time for payment of travelling and other expenses and for remuneration of such officers and of persons employed in the office of the Chief Election Officer. R.S.O. 1960, c. 118, s. 5.

Forms

(6) The Chief Election Officer may make regulations prescribing the forms for use under this Act. *New.*

#### RETURNING OFFICERS

Appoint-  
ment  
of R.O.

4.—(1) The Lieutenant Governor in Council shall appoint a returning officer for every electoral district.

Qualifica-  
tions of  
R.O.

(2) Every person appointed returning officer shall be a Canadian citizen or other British subject of voting age and resident in Ontario.

Refusal or  
incapacity  
to act

(3) If the person appointed returning officer under subsection 1 dies, or refuses to act, or is incapacitated or is discharged in accordance with subsection 7, 8 or 9, the Lieutenant Governor in Council may appoint some other person to be returning officer.

Notification  
of appoint-  
ment

(4) The Chief Election Officer shall notify every person appointed as returning officer of his appointment, and thereupon such person shall enter upon his duties under this Act. R.S.O. 1960, c. 118, s. 24 (1-4), *amended.*

Clerical  
assistance

(5) Subject to the approval of the Chief Election Officer, every returning officer may provide for such clerical and other assistance as is necessary in the performance of his duties. *New.*

Oath of  
R.O.

(6) Every returning officer, immediately upon receiving notice of his appointment, shall take and subscribe the prescribed oath. R.S.O. 1960, c. 118, s. 24 (5), *amended.*

Term of  
office

(7) A returning officer who is appointed under this Act shall continue in office until he dies, or, with prior permission of the Chief Election Officer, he resigns, or unless he is removed from office under subsection 8 or 9.

Removal  
from  
office

(8) The Lieutenant Governor in Council may remove from office any returning officer who,

(a) has attained the age of sixty-five years; or

(b) is incapable, by reason of illness, physical or mental infirmity or otherwise, of satisfactorily performing his duties under this Act.



(9) The Chief Election Officer may remove from office any <sup>Idem</sup> returning officer who has failed to discharge competently his duties, or any of them, under this Act. *New.*

(10) Every returning officer on receiving a writ for an <sup>Endorsement on writ</sup> election shall endorse thereon the date of its receipt. R.S.O. 1960, c. 118, s. 24 (6).

(11) If a writ for an election has been issued to a person <sup>Where appointment is superseded</sup> in whose stead a returning officer has been appointed under subsection 3, a new writ may be issued or the new returning officer may act under the writ already issued as if it had been addressed to him, and the validity of the proceedings had or taken under the first appointment is not affected by the new appointment, but the new returning officer may appoint a new election clerk, if he thinks fit, in the place of the person, if any, appointed to such office by the person previously named returning officer. R.S.O. 1960, c. 118, s. 24 (7), *amended.*

5.—(1) The following persons shall not be appointed or act <sup>Persons excluded from being returning officers, etc.</sup> as a returning officer, election clerk, deputy returning officer or poll clerk:

1. Members of the Executive Council.
2. Crown Attorneys and Clerks of the Peace.
3. Members of the Parliament of Canada or of the Assembly.
4. Judges of federal or provincial courts.
5. Persons who have served as members of the Assembly in the session next preceding the election or, if a by-election takes place during a session of the Assembly, persons who are serving in that session.
6. Persons who have at any time been found guilty of a corrupt practice.

(2) A contravention of this section does not affect the <sup>Validity of election not affected</sup> validity of the election. R.S.O. 1960, c. 118, s. 25 (1, 3), *amended.*

#### ELECTION CLERKS

6.—(1) The returning officer, before nomination day, shall <sup>Appointment of election clerk</sup> appoint in writing a person to be his election clerk, who shall continue in office only for the duration of the election for which he was appointed.

Death or  
default of  
election  
clerk

(2) The returning officer, at any time during the election, may appoint in writing another election clerk if the one previously appointed dies or refuses or neglects or is unable to perform his duties.

Duties

(3) The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or refuses or is disqualified or unable to perform his duties and has not been replaced by another, shall act in his stead as returning officer. R.S.O. 1960, c. 118, s. 34, *amended*.

Oath of  
election  
clerk

(4) The election clerk before entering upon his duties shall take and subscribe the prescribed oath. R.S.O. 1960, c. 118, s. 35, *amended*.

## PART II

### PROCEEDINGS PRELIMINARY TO ELECTION

#### DATES FOR NOMINATION AND POLLING

Nomination  
day and  
election day

7.—(1) When an election is to be held, the Lieutenant Governor in Council may appoint a day for nomination of candidates, which day shall be a Thursday,

(a) not more than sixty and not less than twenty-three days after the date of the writs of election where the nomination day appointed is in the months from May to October inclusive; or

(b) not more than sixty and not less than thirty days after the date of the writs of election where the nomination day appointed is in the months from November to April inclusive.

Polling  
day

R.S.O. 1960,  
c. 191

(2) The day on which polling shall take place shall be the fourteenth day after nomination day unless that Thursday is a holiday, as defined by *The Interpretation Act*, or is declared to be a holiday by law and in any such case the day fixed for the poll shall be Friday of the same week.

Date to be  
same in all  
electoral  
districts

(3) In the case of a general election, the nominations shall be held on the same day for all electoral districts and the respective days for the nomination and for the polling shall be stated in the proclamation for the election.

Writs to  
bear same  
date

(4) The writs for a general election shall be dated on the same day.

Writs to  
state  
nomination  
and polling  
days

(5) A writ of election shall state the respective days for the nomination and for the polling and is returnable forthwith after the execution thereof. R.S.O. 1960, c. 118, s. 19, *amended*.



## POLLING SUBDIVISIONS

**8.** The returning officer shall divide his electoral district into polling subdivisions and shall, so far as is practicable, adopt the municipal polling subdivisions. R.S.O. 1960, c. 118, s. 44 (1, 2). <sup>Polling subdivisions</sup>

## QUALIFICATION OF VOTERS

**9.—(1)** In any electoral district in which an election to the Assembly is held, every person who, at the time of voting, <sup>Who may vote</sup>

- (a) has attained twenty-one years of age;
- (b) is a Canadian citizen or other British subject;
- (c) is not disqualified under this Act or otherwise prohibited by law from voting;
- (d) has resided in Ontario for the twelve months next preceding the day of polling; and
- (e) resides in the electoral district,

is qualified to vote at such election.

(2) For the purpose of this section, a statutory declaration by a person claiming to be a Canadian citizen or other British subject is *prima facie* evidence of the facts declared to. R.S.O. 1960, c. 118, s. 17, *amended*.

**10.** No returning officer or election clerk is entitled to vote, but this provision does not affect the duty of the returning officer to give a casting vote. R.S.O. 1960, c. 118, s. 15. <sup>Disqualification of certain officers</sup>

**11.** Persons who are prisoners in penal or reform institutions, or who are patients in mental hospitals, or who have been transferred from mental hospitals to homes for special care as mentally incompetent are disqualified from voting. R.S.O. 1960, c. 118, s. 16, *amended*. <sup>Disqualification of convicts, mentally ill persons, etc.</sup>

## ENUMERATION

**12.** Every returning officer, forthwith after receipt of a writ of election, shall appoint in writing, for each polling subdivision in the electoral district, two persons of voting age to be enumerators of the voters in such subdivision and to prepare a list thereof, and shall require each of such persons to take the prescribed oath. R.S.O. 1960, c. 420, ss. 57, 91, *amended*. <sup>Enumerators</sup>

Candidates **13.** No candidate shall be an enumerator. *New.*

Enumerators to act jointly **14.** Each enumerator shall exercise the utmost care in the preparation of the list of voters, and the two enumerators appointed for each polling subdivision shall, in relation to each process in the preparation of the list of voters, act jointly and not individually, and, in case of any disagreement, they shall report the matter to the returning officer and in all respects are bound by his decision. R.S.O. 1960, c. 420, ss. 58, 93, *amended*.

Selection of enumerator **15.** The returning officer shall, as far as possible, select and appoint the two enumerators for each polling subdivision so that they represent two different political interests, as provided in section 16. R.S.O. 1960, c. 420, ss. 59, 91, *amended*.

Nomination of enumerators **16.**—(1) Forthwith after the issue of the writ for an election,

- (a) the person who apparently will be the candidate at the election of the political interest represented by the government of the day; and
- (b) the person who apparently will be the candidate at the election of a different political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be,

shall furnish the returning officer with lists of nominations for appointment as enumerators, and such lists may be revised from time to time up to forty-eight hours before the enumeration is to begin.

1600. (2) If forty-eight hours before the enumeration is to begin the returning officer has received insufficient nominations to provide two enumerators representing two different political interests for each polling subdivision, he shall make such additional appointments as he considers necessary to enumerate the electoral district. R.S.O. 1960, c. 420, s. 60, *amended*.

Enumerators' equipment **17.**—(1) The returning officer shall supply each pair of enumerators with,

- (a) enumerators' record forms;
- (b) forms for lists of voters; and
- (c) notices of inability to obtain information.

(2) The enumerators shall forthwith upon their appointment, by means of, <sup>Preparation of list</sup>

(a) a joint house-to-house canvass; and

(b) such other sources as may be available to them,

prepare a list of voters under headings of names of streets where possible and in the order of street numbers in subdivisions in which street numbering is in effect, and in alphabetical order in all other subdivisions, of all persons in the polling subdivisions who are qualified to vote at the election.

(3) The name and address of every person entitled to be entered on the list of voters shall, at the time of visiting the dwelling place of such person, be entered on an enumerators' record which shall be signed by both enumerators, and a duplicate thereof shall be detached from the book and left at such dwelling place. <sup>Enumerators' record</sup>

(4) In making the house-to-house canvass, the enumerators shall visit every dwelling place in the polling subdivision, <sup>House-to-house canvass</sup>

(a) at least once between 9 a.m. and 7 p.m.; and

(b) unless they have ascertained from an occupant of each such dwelling place that no person residing therein remains to be entered on the list, at least once between 7 p.m. and 10 p.m.,

and, where, upon making the last of such visits, the enumerators are unable to secure all the information necessary, they shall leave at such dwelling place a notice of inability to obtain information. R.S.O. 1960, c. 420, ss. 61, 92, *amended*.

(5) The enumerators shall at all reasonable times and upon producing proper identification be given free access for the purposes of enumeration to the entrance door to each dwelling unit in any building having more than one dwelling unit. <sup>Enumerators to have free access</sup>

(6) No person shall wilfully obstruct or interfere with an enumerator in the performance of any of his duties or in the exercise of his rights under this Act. <sup>Obstruction, etc., of enumerators</sup> *New.*

**18.—**(1) The enumerators, immediately after the completion of the list of voters and not later than four days from the date of their appointment, shall, <sup>Verification and disposition of list by enumerators</sup>

(a) verify the list by prescribed oath;



(b) deliver it to the returning officer together with the book of enumerators' record forms used in the preparation of the list; and

(c) prepare three legibly typewritten copies of such list so verified, one for delivery by the returning officer to the printer, one to be posted up in the office of the returning officer, and one to be posted by the enumerator in a conspicuous place in the polling subdivision for which the list was prepared.

Copy of  
list to  
candidates

(2) The returning officer shall furnish each candidate as soon as possible with one copy of the list of voters.

Printing of  
preliminary  
list

(3) The returning officer, forthwith upon receipt of the list of voters from the enumerators, shall cause it to be printed and shall furnish each candidate or his official agent with twelve printed copies of the list of voters for each polling subdivision. R.S.O. 1960, c. 420, ss. 62, 94, *amended*.

Enumerator  
refusing  
to act

**19.** Every enumerator who wilfully neglects, omits or refuses to perform any of his duties under this Act forfeits his right to payment for any services already rendered. R.S.O. 1960, c. 420, s. 96, *amended*.

Enumerator  
replaced

**20.** The returning officer may at any time replace any enumerator appointed by him by appointing another enumerator to act in his place and stead and, upon receiving notice in writing from the returning officer of his replacement, the enumerator so replaced shall forthwith deliver to the returning officer his credentials and all papers and materials supplied to him. R.S.O. 1960, c. 420, s. 97.

#### PROCLAMATION

Proclama-  
tion  
by R.O.

**21.—(1)** The day following completion of the enumeration, the returning officer shall by proclamation, declare,

(a) the place and time fixed for the nomination of candidates;

(b) the hours and days of the week during which he will be in his office to revise the list of voters, as directed by the Chief Election Officer;

(c) the day fixed for holding the poll for taking the votes of the voters in case a poll is granted; and

(d) the time and place fixed for adding up the number of votes given to each candidate.

(2) The returning officer shall issue the proclamation to be posted up in adequate numbers and in conspicuous places on public or private property throughout the electoral district and to be published in newspapers having a general circulation in the electoral district. R.S.O. 1960, c. 118, s. 28, *amended*. <sup>Posting of proclamation</sup>

#### RE-ENUMERATION

**22.**—(1) Any voter whose name is omitted from the list of voters as prepared by the enumerators, or any person who has knowledge of the fact that the name or names of any other voter or voters has or have been so omitted, may so inform the returning officer in writing stating the names and addresses of the voters so omitted. <sup>Re-enumeration</sup>

(2) The returning officer, before the preparation of the polling lists, shall cause an enumeration to be made of all voters of whom such notice has been given, and the enumerators shall visit the addresses and enumerate such voters and any other voters at those addresses whose names have been omitted from the list of voters. <sup>Idem</sup>

(3) The returning officer shall appoint enumerators for the purposes of subsection 2 from among those who have already acted as such for the pending election or, if necessary, shall appoint others in the manner provided by sections 15 and 16. R.S.O. 1960, c. 420, s. 74 (5-7), *amended*. <sup>Enumerators for re-enumeration</sup>

#### REVISION

**23.** The returning officer shall permit to be present in his office during the hours of revision of the list of voters a representative of each recognized political interest in the electoral district but no such representative, except with the permission of the returning officer, has any right to take part or intervene in the proceedings. R.S.O. 1960, c. 420, s. 85, *amended*. <sup>Revision</sup>

**24.**—(1) A person resident in any polling subdivision whose name has not been included or has been incorrectly included by the enumerator in the list of voters for such subdivision may apply to the returning officer to have his name included in the list or to cause the entry in the list relating to him to be corrected. <sup>Who may apply to be registered or have correction made</sup>

(2) Every person so applying shall sign an application in which all the information shall be sufficiently filled in, either by the applicant personally or by the returning officer at the applicant's request, and before entering the name of the person in the list of voters or before correcting the list, as the case may require, the returning officer shall satisfy himself that the <sup>Application to be entered on list to be signed</sup>

applicant understands the effect of the statements in the application and that he is entitled to have his name included on the list or to have the list corrected pursuant to his request.

Absence through sickness etc., relative or employer may appear

(3) If a person who claims to be entitled to have his name included in the list of voters or to have the entry relating to him therein corrected is unable to attend in person by reason of sickness or disability or unavoidable absence from the electoral district, a relative of such person by blood or marriage or his employer may appear before the returning officer and complete the application to have such person's name included in the list of voters or to have the list corrected, as the case may be.

Evidence to be produced by relative or employer

(4) If the relative by blood or marriage or the employer so appearing substantiates,

- (a) the cause for the non-appearance of the person immediately concerned to be as set out in subsection 3;
- (b) the existence of a relationship by blood or marriage or the relationship of employer and employee; and
- (c) the facts relevant to the qualification, name, address or identity of the person immediately concerned so far as such facts are requisite to cause the name of the person to be included in the list of voters or to cause the list to be corrected, as the case may be,

the returning officer may act upon the application as if the person immediately concerned had appeared in person before him. R.S.O. 1960, c. 420, s. 74 (1-4).

Interpreter where necessary

(5) When the language of the applicant is not understood by the returning officer, an interpreter may be sworn and may act, but in the event of inability to secure an interpreter, the application shall, for the time being, be refused. R.S.O. 1960, c. 118, s. 90; R.S.O. 1960, c. 420, s. 86, *amended*.

Returning officer to enter name when satisfied applicant is qualified

**25.** If it appears to the returning officer that the applicant understands the effect of the statements in the application and that the applicant's name should be included in the list or that the amendment thereof that he requests should be made, he shall certify accordingly by signing the application. R.S.O. 1960, c. 420, s. 79, *amended*.

Procedure where application refused

**26.** If, in the opinion of the returning officer, the statements made by the applicant in his application do not show that the applicant is entitled to have his name included in the list or to have the list amended as requested, he shall inform the



applicant that his application is refused, stating the reasons for such refusal, which reasons he shall endorse on the application form. R.S.O. 1960, c. 420, s. 80, *amended*.

**27.**—(1) Within seven days after the list of voters is posted up by the enumerators, any voter may file with the returning officer a complaint, on the prescribed form, that there has been included in the list of voters the name or names of persons who should not be entered therein. Complaint for wrongful entry on list

(2) The returning officer upon receipt of the complaint shall forthwith cause to be sent by registered mail to the person objected to at the address mentioned in the list and to such other address, if any, as may be mentioned in the complaint, a notice requiring such person to appear in person or by his representative before him on a day to be named in the notice. Notice to persons objected to

(3) There shall be sent with the notice a copy of the complaint of the voter making the complaint. Copy of complaint

(4) On the day of hearing named in the notice, the person filing the complaint shall attend before the returning officer and establish to the satisfaction of the returning officer the validity of such complaint and the returning officer, after receiving an explanation of the facts alleged and after hearing what is alleged by the person concerning whom the complaint was made, may make such order as he considers just under the circumstances. R.S.O. 1960, c. 420, ss. 75, 76, *amended*. Hearing of complaint

**28.** The name of a person shall not be removed from the list unless the returning officer is satisfied on oath that due notice of complaint has been given to the person or that the person could not be found and the registered notice could not be delivered. R.S.O. 1960, c. 420, s. 81, *amended*. Name not to be struck off without notice

**29.**—(1) A person who was a resident in, and is entered on the list of voters prepared for a polling subdivision in an electoral district or who would have been entitled to be so entered had he remained a resident in such electoral district and who has moved from such electoral district and has become a resident of another electoral district is entitled to be entered on the list of voters in the last mentioned electoral district by the returning officer upon filing with the returning officer an affidavit in the prescribed form and producing such other evidence that he was so entered or entitled to be so entered as the returning officer considers necessary. Change of residence, removal from one electoral district to another

(2) The returning officer shall give a certificate in the prescribed form to every person entered on the list under subsection 1. Certificate

Entry after  
name of  
person so  
added

(3) The returning officer shall write "entered under *The Election Act*, section 29" after the name of every person entered on the list under subsection 1.

Production  
of certificate  
at poll

(4) A person whose name is entered on the list under this section is not entitled to vote unless at the time he requests a ballot he produces to the deputy returning officer the certificate mentioned in subsection 2. R.S.O. 1960, c. 118, s. 18, *amended*.

Evidence  
required

**30.** The returning officer shall not remove any name from the list or make any other changes therein except upon evidence under oath. R.S.O. 1960, c. 420, s. 82, *amended*.

Returning  
officer's  
decision  
final

**31.** The decision of the returning officer with regard to the right of a person to vote or to the right to enter on or strike from the lists the name of a person as a voter is final. R.S.O. 1960, c. 420, s. 5, *amended*.

Statement  
of changes  
and  
additions to  
candidates

**32.** A statement of changes and additions shall be prepared and certified in at least seven clear copies and the returning officer shall forthwith send one copy to each candidate or his official agent. R.S.O. 1960, c. 420, ss. 88 (1), 89, *amended*.

Lists so  
revised to  
be lists for  
the election

**33.**—(1) The returning officer shall make the appropriate changes in the verified list of voters in accordance with the statement of changes and additions and shall certify the revised list, and shall attach to the revised list a certified copy of the statement of changes and additions. R.S.O. 1960, c. 420, ss. 83, 90 (1), *amended*.

Lists with  
statements  
to be official  
lists

(2) The returning officer shall prepare the polling list for each polling subdivision by attaching to a certified copy of the revised list a certified copy of the statement of changes and additions, but, if any material difference between its contents and the contents of the list as finally revised is discovered, the returning officer shall furnish the deputy returning officer and each candidate with a certificate of the error, and the polling list shall for all purposes be taken to have been amended in accordance with the certificate. R.S.O. 1960, c. 420, s. 90 (2), *amended*.

#### IRREGULARITIES

Irregularities  
not to affect  
result of  
election

**34.** An irregularity in the preparation or revision of any list of voters is not a ground for questioning the validity of an election. R.S.O. 1960, c. 118, s. 6, *amended*.

#### PROXIES

Who may  
vote by  
proxy

**35.**—(1) Any qualified voter who is entered on the list of voters for a polling subdivision and who is,

- (a) a member of the regular forces of the Canadian Forces or a member of the reserve forces of the Canadian Forces when on active service as defined by the *Canadian Forces Reorganization Act* and the *National Defence Act*; or 1966-67, c. 96 (Can.) R.S.C. 1952, c. 184
- (b) a person who expects to be absent from his polling subdivision during the election period including the advance poll and polling day by reason of his being engaged for hire or reward in the business of transportation by railway, air, water or motor vehicle; or
- (c) a person certified by a legally qualified medical practitioner, by certificate filed with the returning officer, to be physically incapable of attending a polling place,

may vote by proxy in that polling subdivision.

(2) Any person who is entitled to vote by proxy under this section may appoint in writing a proxy who shall be the wife or husband or a parent, brother, sister or child of such person and an elector entitled to vote in the electoral district in which the person appointing the proxy is qualified to vote. Appointment of proxy

(3) The appointment of a proxy shall name the person authorized to vote at an election for which a writ has been issued for the electoral district, and no appointment of a proxy is valid unless it is made after the date of the issue of the writ of election or remains in force after polling day. Term of appointment

(4) A person who has been appointed a voting proxy may apply to the returning officer to be entered upon the list for the polling subdivision in which the person appointing the proxy is entitled to vote. Application of proxy to be entered on list

(5) The returning officer shall take evidence on oath as to the right of the person appointing the proxy to vote in the subdivision upon the list for which his name is entered and as to the qualifications of the voting proxy, and, if he finds that the person appointing the proxy is duly qualified and that the voting proxy is qualified to act for the person appointing the proxy, he shall give a prescribed certificate across the face of the appointment of the voting proxy to that effect and shall cause the name of the voting proxy to be entered on the polling list after the name of the person appointing the proxy. Evidence to be taken by returning officer

(6) Not more than one person shall be appointed a voting proxy on behalf of a person appointing the proxy at any election. Not more than one proxy



Oath on  
voting

(7) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy to the deputy returning officer with the certificate of the returning officer thereon as provided in subsection 5 and takes the prescribed oath.

Record of  
voting by  
proxy

(8) The deputy returning officer shall record in the poll book the fact that the person appointing the proxy voted by proxy and the name of the proxy, and shall file the proxy and certificate with the election papers and return them to the returning officer in the envelope provided for that purpose.

Proxy may  
vote in own  
right

(9) A person who has been appointed as a voting proxy is entitled to vote in his own right in the electoral district notwithstanding that he has voted as a proxy. R.S.O. 1960, c. 118, s. 87 (1-9), *amended*.

### PART III

#### CANDIDATES

#### QUALIFICATION

Who may  
be candidate

**36.** Every person who,

- (a) is of voting age;
- (b) is a Canadian citizen or other British subject;
- (c) has resided in Ontario for the twelve months next preceding the day of polling; and
- (d) is not disqualified by *The Legislative Assembly Act* or by any other Act,

R.S.O. 1960,  
c. 208

is qualified to be a candidate. R.S.O. 1960, c. 118, s. 13, *amended*.

Who may  
not be  
candidate

**37.—**(1) No person who has been engaged as a returning officer in the preparation of the lists of voters to be used at an election is eligible as a candidate at the election. R.S.O. 1960, c. 118, s. 2 (2), *amended*.

Idem

(2) No person who has been found guilty within eight years of an election of a corrupt practice or of an offence relating to an election is eligible to be a candidate at the election. R.S.O. 1960, c. 118, s. 168, *amended*.

#### NOMINATION

Place and  
time of  
nomination

**38.** The place for the nomination of candidates shall be the court house, municipal hall or some other building in the most central or the most convenient place for the majority of the

voters of the electoral district, and the time appointed for the nomination of candidates shall be from 1 p.m. until 2 p.m. of the day fixed for that purpose. R.S.O. 1960, c. 118, s. 29, *amended*.

**39.**—(1) The returning officer, at the time and place fixed for the nominations, shall make or cause to be made, in the presence of voters there assembled, a pronouncement in the prescribed form, and shall read or cause to be read publicly the writ of election, and he shall then call for nominations or further nominations. Proceedings on nomination day

(2) The nomination shall be by writing signed by at least 100 duly qualified electors of the electoral district and stating the name, residence and occupation or description of the person proposed in such manner as will identify him sufficiently, and a person shall be deemed to be a duly qualified elector if he is qualified to be entered on the list of voters as entitled to vote at the election. Nominations to be in writing

(3) Each candidate shall be nominated by a separate nomination paper, and a duly qualified elector may sign the nomination papers of different candidates. Separate nomination for each candidate

(4) The nomination paper shall be filed with the returning officer at any time during the ten days immediately preceding nomination day or at any time up to the close of nominations on nomination day. When to be filed

(5) The nomination paper shall be accompanied by the consent in writing of the person therein nominated, except where such person is absent from Ontario, in which case such absence shall be stated in the nomination paper. Consent of candidate

(6) Where the nomination paper is filed with the returning officer during the ten days next preceding nomination day or not later than 11 a.m. on nomination day, the returning officer shall then and there examine the paper and, if he is satisfied of the regularity thereof, he shall so certify in writing, and his certificate is final, and the validity of the nomination is not open to question upon any ground whatsoever. Certificate of R.O. as to regularity

(7) Where the nomination paper is filed with the returning officer after 11 a.m. on nomination day and before the time fixed for the close of nominations, Nomination paper

(a) the returning officer shall accept the nomination paper and announce the name of the candidate; acceptance

rejection

(b) if, on examination of the nomination paper, it appears to the returning officer that the nomination is invalid for any reason, he shall communicate the facts to the Chief Election Officer and shall not reject the nomination unless the Chief Election Officer authorizes the rejection not later than 2 p.m. on the day next following nomination day, in which case the returning officer shall give notice of the rejection immediately by registered mail to the rejected candidate and all other candidates.

Candidate  
or agent  
need not  
attend

(8) In no case is it necessary for a candidate or his official agent to be present at the nomination meeting. R.S.O. 1960, c. 118, s. 49.

Grant of  
poll

**40.**—(1) If more than one candidate is nominated, the returning officer shall grant a poll for taking the votes and, if he declares a candidate to be elected, the election is void. R.S.O. 1960, c. 118, s. 50, *amended*.

Notice of  
grant of  
poll

(2) When a poll is granted, the returning officer shall cause the prescribed notice thereof to be printed, declaring the polling places fixed by him and the territorial limits to which they respectively apply, and he shall cause the notice to be posted up in the electoral district at least five days before polling day in the same manner as is provided for the posting up of the proclamation. *New*.

Election by  
acclamation

**41.** If only one candidate is nominated or if by the withdrawal of persons nominated there remains only one candidate, the returning officer, at the expiration of the time in which nominations may be received, shall close the election and openly proclaim such candidate to be duly elected. R.S.O. 1960, c. 118, s. 51.

Non-  
liability of  
person  
nominated  
without  
consent

**42.** Nothing in this Act imposes any liability upon a person nominated as a candidate or declared to be a candidate by others without his consent unless he has afterwards given his assent to the nomination or declaration or has been elected. R.S.O. 1960, c. 118, s. 12.

Official  
agents  
announced

**43.** The returning officer shall announce at the place and on the day of nomination, the names and addresses of the official agents of the candidates and, on or immediately after the day of nomination, shall publish such names and addresses in a newspaper published or circulated within the electoral district. R.S.O. 1960, c. 118, s. 52, *amended*.



## OFFICIAL AGENT

**44.**—(1) Every candidate shall appoint an official agent Appointment of official agent whose name and address shall be declared in writing to the returning officer on or before the nomination day.

(2) In the event of the death or incapacity of an official agent, the candidate shall forthwith appoint another official agent in his place and give notice to the returning officer of the name and address of the person appointed, which shall be published forthwith by the returning officer in the manner provided by section 43. R.S.O. 1960, c. 118, s. 187, *amended*. On death or incapacity of an agent, appointment of another

**45.** No person shall act as an official agent for a candidate at an election who, Persons disqualified from acting as agents

(a) is disqualified from voting under section 11; or

(b) within eight years before the election has been found guilty of a corrupt practice or an offence relating to an election. R.S.O. 1960, c. 118, s. 9, *amended*.

## SCRUTINEER

**46.** A candidate may undertake any of the duties that his scrutineer might have undertaken if appointed, or may assist his scrutineer in the performance of such duties, and may be present at any place at which his scrutineer may attend in pursuance of this Act. *New*. Right of candidates to undertake duties of scrutineers

**47.** Where expressions are used in this Act that require or authorize any act to be done in the presence of the scrutineers of the candidates, the non-attendance of any scrutineer does not invalidate the act. *New*. Non-attendance of scrutineers

## WITHDRAWAL OF CANDIDATE

**48.**—(1) A candidate may withdraw at any time after his nomination and before the opening of the poll by delivering to the returning officer the prescribed declaration to that effect, signed by himself in the presence of a subscribing witness, and any votes cast for a candidate who has so withdrawn are void, and, if after the withdrawal there remains but one candidate, the returning officer shall return as duly elected the candidate so remaining. Withdrawal of candidate after nomination

(2) In the case of a candidate withdrawing where there are more than two candidates, the returning officer if possible, shall cause every deputy returning officer to be notified forthwith of the withdrawal, and notice of the withdrawal shall be posted up in a conspicuous place in every polling place in the electoral district. R.S.O. 1960, c. 118, s. 53, *amended*. Idem

## DEATH OF CANDIDATE

Death of  
candidate

**49.** If a candidate dies after being nominated and before the close of the poll, the Chief Election Officer shall fix new days for the nomination of candidates and for polling, and the nomination day shall be the nearest day practicable. R.S.O. 1960, c. 118, s. 54, *amended*.

## PART IV

## PREPARATION FOR THE POLL

## BALLOTS

Ballot paper  
used

**50.**—(1) The paper used for printing the ballots shall be as approved by the Chief Election Officer.

Paper to  
show secret  
marking

(2) The paper used shall contain a secret thread or other mark so placed as to run through each ballot.

Security  
to be  
furnished  
by manu-  
facturer

(3) The manufacturer of the paper shall furnish security in such amount as is fixed by the Lieutenant Governor in Council that none of the paper manufactured for use in printing the ballots will be supplied by him to any person other than the Queen's Printer, and, upon the delivery of the paper, the number of sheets shall be counted by the Queen's Printer and a receipt therefor in writing signed by the Queen's Printer shall be given to the manufacturer.

Queen's  
Printer to  
furnish  
paper to  
C.E.O.

(4) The Queen's Printer shall supply the Chief Election Officer with the paper required for the printing of the ballots from time to time as is required, and the Queen's Printer and the Chief Election Officer shall check the number of sheets of ballot paper so supplied and the Chief Election Officer shall give to the Queen's Printer a receipt in writing signed by the Chief Election Officer. R.S.O. 1960, c. 118, s. 63 (1-4), *amended*.

Custody of  
ballot paper

(5) The Chief Election Officer, before each general election and from time to time, shall cause a check to be made of all ballot paper supplied to him, and such paper shall be kept at all times under lock and key and no one shall have access to the place in which it is kept, except the Chief Election Officer or some person acting directly under his authority. R.S.O. 1960, c. 118, s. 66, *amended*.

C.E.O. to  
see to  
printing of  
ballots

**51.**—(1) The Chief Election Officer shall cause to be printed on the approved paper a sufficient number of ballots for the poll to be conducted in each electoral district.

(2) The printer shall count the sheets of ballot paper delivered to him and shall give the prescribed receipt therefor to the Chief Election Officer. Printer to give receipt for ballot paper

(3) The names of the candidates shall be shown on the ballot in order of surnames alphabetically arranged, with given names preceding the surnames, with the surnames in bold type, and with consecutive numbers preceding each candidate's name. R.S.O. 1960, c. 118, s. 63 (6-8), *amended*. Form of ballot

(4) A circle shall be shown on the ballot to the right of each candidate's name. Idem

(5) The names of candidates, numbers and circles shall be white and the remainder of the face of the ballot shall be black, but, where there are two or more candidates whose given and surnames are identical or so nearly identical as to create the possibility of confusion, the address of all candidates shall be shown on the face of the ballot immediately under their names in white and in sufficient detail as to identify each candidate. Idem

(6) No other identification such as occupation, title, honour, decoration or degree shall be included with any candidate's name on the ballot. *New*. Idem

(7) The ballots shall be numbered consecutively on the stubs and shall be bound or stitched in books. Numbering of ballots

(8) All ballots shall be of the same description and as nearly alike as possible. Uniformity

(9) The ballots shall bear upon the back the name of the printer who printed them. Printer's name

(10) The printer shall make the prescribed affidavit and deliver it to the Chief Election Officer with the ballots. R.S.O. 1960, c. 118, s. 63 (9-12), *amended*. Affidavit of printer

(11) The Chief Election Officer shall deliver to each returning officer in one or more locked and sealed boxes, the ballots for his electoral district, and the returning officer upon receiving them shall make a count of the ballots and forward the prescribed receipt therefor to the Chief Election Officer. R.S.O. 1960, c. 118, s. 63 (5), *amended*. Supply to be furnished to R.O. and receipt obtained

(12) The returning officer shall supply each deputy returning officer with a sufficient number of ballots to supply the voters on the polling list of his polling place or polling subdivision, and with the necessary materials for voters to mark Supply to D.R.O.



their ballots, and when delivering them the returning officer shall certify the number of ballots delivered and shall make a record of the numbers of the ballots delivered to each deputy returning officer, and this record shall be returned to the Chief Election Officer with the other documents required to be returned to him.

Receipt to  
be given by  
D.R.O.

(13) The deputy returning officer shall count the ballots as soon as he receives them from the returning officer and forward the prescribed receipt therefor to the returning officer. R.S.O. 1960, c. 118, ss. 64, 65 (2), *amended*.

#### BALLOT BOXES

Ballot boxes  
to be  
furnished

**52.**—(1) The Chief Election Officer shall supply each returning officer with as many ballot boxes as are required for the conduct of the election.

How made

(2) Every ballot box shall be made of durable material and so constructed that ballots can be deposited therein but cannot be withdrawn without unlocking the box.

Property of  
the Crown

(3) The ballot boxes, ballots, marking instruments, books, papers and documents procured for or used at an election are the property of the Crown.

Delivery of  
ballot boxes  
to D.R.O.

(4) Where it becomes necessary to use the ballot boxes, the returning officer shall deliver one ballot box to every deputy returning officer at least two days before the polling day.

Duty of  
D.R.O. as  
to ballot  
box

(5) A deputy returning officer who has not been supplied with a ballot box within such time shall cause one to be made forthwith.

Disposition  
of ballot  
boxes

(6) After the close of the election, the returning officer shall make such disposition of the ballot boxes as is directed by the Chief Election Officer. R.S.O. 1960, c. 118, ss. 39-43, *amended*.

#### POLLING PLACES

Polling  
places

**53.**—(1) Subject to subsection 4, and to section 54, the returning officer, on receiving the writ, shall provide at least one polling place for each polling subdivision in the most central or most convenient place for the voters, furnished with light and heat and such other accommodation and furniture as may be required, and, if the Chief Election Officer approves, the polling place may be provided outside the limits of the polling subdivision.

(2) The returning officer may unite two or more adjoining polling subdivisions and provide one polling place for the united subdivisions. Union of polling subdivisions

(3) A polling place may be situated in a schoolhouse, hall or other public building or on private property. Location of polling places

(4) The poll shall not be held in a premises licensed under *The Liquor Licence Act* or in a place of public entertainment, except as authorized by the Chief Election Officer. Where polling places not to be  
R.S.O. 1960, c. 218

(5) The returning officer may provide such additional polling places in any polling subdivision as are required having regard to the extent of the subdivision, the remoteness of any number of its voters from the polling place and the number of voters that may conveniently vote at one polling place. Additional polling places

(6) Where there are two or more polling places in a subdivision, each polling place shall be designated by the initial letters of the surnames of the voters who are to vote in such polling place, in the following manner, thus, from A to M inclusive and from N to Z inclusive, or as may be determined by the returning officer. Division to be according to initial letters of voters' names

(7) Every voter, the initial letter of whose surname is included within the letters of the alphabet designating a polling place, shall vote in the polling place so designated. Where voters to vote

(8) Every voter has free access to the poll. R.S.O. 1960, c. 118, ss. 45, 46, *amended*. Access

#### HOSPITALS, HOMES FOR THE AGED, AND OTHER INSTITUTIONS

**54.—**(1) Where in an electoral district there is situate a hospital or other institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or the armed forces of any member of the Commonwealth, or who are blind or deaf, a Workmen's Compensation hospital, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside, a polling place shall be provided in such institution or upon the premises, and, for the purpose of polling, the institution shall be deemed to be a polling place and every person resident in the institution who is entered on the polling list shall vote at such polling place. Polling places in hospitals, etc.

(2) Where a patient of such a hospital or other institution is bed-ridden or is unable to walk, it is lawful for the deputy returning officer and poll clerk with the candidates or their Incapacitated patients

scrutineers to attend upon such person for the purpose of receiving his ballot, but no candidate or scrutineer shall be present where the ballot of any such voter is marked under section 84. R.S.O. 1960, c. 118, s. 47, *amended*.

#### VOTING COMPARTMENTS

Compartment-  
ments for  
voters to  
mark ballots

**55.** Every polling place shall be furnished with compartments in which voters may mark their ballots without other persons being able to see how they are marked, and it is the duty of the returning officer and the deputy returning officer respectively to ensure that a sufficient number of compartments is provided at each polling place. R.S.O. 1960, c. 118, s. 48.

#### PROCEEDINGS PRELIMINARY TO THE POLL

Appoint-  
ment of  
D.R.O. and  
poll clerk

**56.—(1)** The returning officer shall appoint in writing a deputy returning officer and a poll clerk for every polling place.

How to be  
selected

(2) The returning officer, as far as possible, shall select and appoint the deputy returning officer and poll clerk so that they represent two different political interests, as provided in subsection 3.

Nomination  
of D.R.O.,  
and poll  
clerk

(3) Subject to subsection 4, the returning officer shall appoint a deputy returning officer from a list of names provided to him by the person who apparently will be the candidate at the election of the political interest represented by the Government of the day and shall appoint a poll clerk from a list of names provided to him by the person who apparently will be the candidate at the election of a different political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be.

Insufficient  
nomination

(4) If seventy-two hours before the opening of the polls the returning officer has received an insufficient number of names to provide a deputy returning officer and a poll clerk representing two different political interests for each polling place, he shall make such additional appointments as are necessary.

Oath of  
office

(5) Every deputy returning officer and poll clerk, before acting, shall take and subscribe the prescribed oath.

Qualifica-  
tion

(6) No person shall be appointed a deputy returning officer or poll clerk who is not qualified to vote at the election.

Duties of  
poll clerk

(7) The poll clerk shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders.



(8) In case of the death, illness, absence, refusal or neglect to act, or in case from any cause the deputy returning officer becomes unable to perform his duties, until another deputy returning officer is appointed, the poll clerk shall act as deputy returning officer and perform all the duties and is subject to all the obligations of that office, without taking the oath of a deputy returning officer. Death or absence of D.R.O.

(9) The appointment and oath of the deputy returning officer shall be endorsed upon or attached to the poll book. Idem

(10) The returning officer shall deliver to each deputy returning officer, at least forty-eight hours before the polling day, the polling list, a blank poll book and such other materials as are provided by the Chief Election Officer. R.S.O. 1960, c. 118, ss. 56, 57, 59, 62, 67 (1); R.S.O. 1960, c. 420, ss. 59, 60, *amended*. Supplies to D.R.O.

#### WHERE VOTERS TO VOTE

**57.** If the name of a person entitled to vote is entered on the polling list for more than one polling subdivision, he shall vote only at one polling place. R.S.O. 1960, c. 118, s. 73 (1), *amended*. Voter to vote in one subdivision only

#### CERTIFICATES OF OUTSIDE VOTERS

**58.—**(1) The returning officer, on the personal or written request of a person entitled to vote who has been appointed a deputy returning officer or poll clerk or scrutineer of any of the candidates at a polling place other than the one at which he is entitled to vote, shall give him a prescribed certificate that he is entitled to vote at the polling place at which he is stationed during the polling day, so long as that polling place is within the electoral district in which his name appears on the polling list, and the certificate shall bear the date upon which it is signed by the returning officer. D.R.O., poll clerk and agents may vote at polling places where they are employed

(2) The returning officer shall not give such a certificate until he has ascertained by reference to the polling list that the applicant is entitled to vote, and after giving the certificate he shall forthwith give notice in writing thereof to the deputy returning officer for the polling place at which the applicant appears by the polling list to be entitled to vote, and the person to whom the certificate has been given is not thereafter entitled to vote at such polling place. When certificate for that purpose may be given

(3) The returning officer shall not give such a certificate unless requested to do so at least forty-eight hours before polling day. Time of request

Polling  
place to be  
designated

(4) The certificate shall designate the polling place at which the person is to be permitted to vote.

List of  
persons  
obtaining  
or refused  
certificates

(5) The returning officer shall keep a list in which he shall enter before he delivers a certificate under this section,

- (a) the name and residence of the person to whom he gives the certificate;
- (b) the polling place at which the person is authorized to vote under the certificate;
- (c) the polling place at which the person appears by the polling list to be entitled to vote;
- (d) whether the certificate is granted to him as deputy returning officer, poll clerk or scrutineer, and, if as scrutineer, the name of the candidate for whom he is scrutineer; and
- (e) if a certificate is refused, the name of the person applying for the certificate with the grounds of refusal, and, if the person is applying as scrutineer of a candidate, the name of the candidate,

and the list shall be open to inspection by any candidate, official agent, scrutineer or voter. R.S.O. 1960, c. 118, s. 74 (1-6), *amended*.

Production  
of certificate

**59.—**(1) A person who produces a certificate given to him under section 58, is entitled to vote at the polling place designated therein, but the certificate does not entitle him to vote there unless he has been actually engaged there as a deputy returning officer, poll clerk or scrutineer during polling day.

Person  
receiving a  
certificate  
to take oath  
of  
qualification  
before  
voting

(2) A person who receives a certificate, whether a deputy returning officer, poll clerk, or scrutineer shall not vote until he has taken one or other of the prescribed oaths of qualification.

Before  
whom oath  
to be taken

(3) The oath shall be administered to a deputy returning officer by the poll clerk or, in his absence by the scrutineer of a candidate authorized to be present, and to a poll clerk or scrutineer by the deputy returning officer.

Entry on  
list of  
persons  
voting under  
authority of  
a certificate

(4) The deputy returning officer shall enter or cause to be entered in the column for remarks in the poll book opposite the name and residence of the person voting under the authority of a certificate, the words "Voted under Certificate".

(5) A person voting under the authority of a certificate shall deliver it to the deputy returning officer before receiving his ballot. Certificate to be delivered by person voting

(6) The deputy returning officer shall enclose all such certificates in one envelope. R.S.O. 1960, c. 118, s. 75, *amended*. Preservation

## PART V

### THE POLL

#### VOTING BY BALLOT

**60.** The votes shall be given by ballot. R.S.O. 1960, c. 118, s. 79. Voting to be by ballot

#### PRESERVATION OF THE PEACE

**61.** A returning officer or a deputy returning officer may require the assistance of justices of the peace, constables and other persons to aid him in maintaining peace and order at the election and may swear in as many constables as he deems necessary. R.S.O. 1960, c. 118, s. 144. Assistance by justices and constables

#### SECRECY OF PROCEEDINGS

**62.** In addition to the deputy returning officer, the poll clerk, the constable or constables, the candidates and their official agents and not more than one scrutineer for each candidate at any one time shall be permitted to remain in the polling place during the time the poll remains open and at the counting of the votes. R.S.O. 1960, c. 118, s. 100, *amended*. Who may be in polling places

**63.** No person shall communicate any information obtained at a polling place as to the candidate for whom a voter at the polling place is about to vote or has voted. R.S.O. 1960, c. 118, s. 147 (3). Communicating information as to how a voter is voting

**64.** No person shall interfere or attempt to interfere with a voter when the voter is marking his ballot, or attempt to obtain at the polling place information as to the candidate for whom a voter is about to vote or has voted. R.S.O. 1960, c. 118, s. 147 (2). Interference with voters

**65.** Subject to section 84, while a voter is in a compartment for the purpose of marking his ballot, no other person shall be allowed to enter the compartment or to be in a position from which he can see for whom the voter marks his ballot. R.S.O. 1960, c. 118, s. 95, *amended*. Exclusion from balloting compartment

Inducing  
voter to  
display  
ballot after  
marking

**66.** No person shall, directly or indirectly, induce or attempt to induce a voter to show his ballot after he has marked it so as to make known to any person the name of the candidate for whom he has voted. R.S.O. 1960, c. 118, s. 148.

Voter not  
to display  
marked  
ballot

**67.** Subject to section 84, a voter shall not show his ballot, when marked, to any person so as to allow the name of the candidate for whom he has voted to be known. R.S.O. 1960, c. 118, s. 149.

Oath of  
secrecy

**68.** Every returning officer and every deputy returning officer, clerk, constable, official agent, scrutineer and other person authorized to attend at a polling place, or at the counting of the votes, shall before entering on his duties take the prescribed oath of secrecy. R.S.O. 1960, c. 118, s. 150, *amended*.

No one  
compellable  
to disclose  
his vote

**69.** A person who has voted shall not in any legal proceeding be compelled to state for whom he voted. R.S.O. 1960, c. 118, s. 152, *amended*.

#### ADVANCE POLLS

Advance  
polls

**70.—(1)** The Saturday and Monday immediately preceding polling day shall be days on which polls shall be held for the purpose of receiving votes of voters who expect to be unable to vote on polling day in the polling subdivisions for which their names appear on the polling lists.

Time of  
poll

**(2)** The advance polls shall be open from 11 a.m. to 8 p.m. on each of the two days.

Fixing the  
polling  
places

**(3)** The returning officer shall provide as many polling places as are approved by the Chief Election Officer, fix their location and appoint a deputy returning officer and poll clerk for each polling place. R.S.O. 1960, c. 118, s. 77 (1-3), *amended*.

Accessibility  
to wheel  
chairs

**(4)** The returning officer, in fixing the location of the polling places, shall select, so far as is reasonably possible, public places or premises that afford access to wheel chairs. *New*.

Notice of  
polls

**(5)** Notice of the times and places at which advance polls will be opened shall be given by the returning officer, before the days for holding the poll, by posting up notices in the prescribed form at each of the polling places so appointed and in conspicuous places in the electoral district and by advertisement in a newspaper having general circulation in the electoral district.



(6) Every person offering himself as a voter at the polling place shall be required by the deputy returning officer before being allowed to vote to make the prescribed declaration which shall be kept by the deputy returning officer with the other records of the poll. Declaration of voter

(7) Forthwith after the close of the poll each day, the deputy returning officer shall make up and deliver or mail to the returning officer a list of the names of all persons who have voted showing in each case the number of the polling subdivision in which the voter is entered on the polling list, and the returning officer shall furnish every candidate with a copy of such list. List of persons voting

(8) Upon receiving the list mentioned in subsection 7, the returning officer shall make an entry in the polling list to be supplied to each deputy returning officer on polling day opposite the name of each voter whose name appears on such list and whose vote has been received at an advance poll, showing that such voter has polled his vote. Noting other deputy returning officer's lists

(9) On the general polling day, the deputy returning officer shall, in the presence of such candidates, official agents and scrutineers as are present at the hour fixed for the closing of the poll, open the ballot boxes, count the votes and perform all other duties required of deputy returning officers by this Act. R.S.O. 1960, c. 118, s. 77 (4, 5, 9, 10, 11), *amended*. Close of poll

#### TIME OF GENERAL POLL

**71.—**(1) Subject to subsection 2, the polls at every election to the Assembly shall open at 8 a.m. and remain open until 7 p.m. of the same day. Hours of polling generally

(2) Where the Chief Election Officer considers it desirable for the convenience of the voters that the polls should be opened in any electoral district at an earlier hour than 8 a.m., the Chief Election Officer may direct the polls to be opened in such electoral district at such time earlier than 8 a.m., but not earlier than 6 a.m., as he considers expedient. R.S.O. 1960, c. 118, s. 76, *amended*. When C.E.O. may provide for earlier opening

#### PROCEDURE AT POLL

**72.—**(1) The deputy returning officer shall attend at the polling place at least fifteen minutes before the hour fixed for opening the poll. Attendance of D.R.O.

(2) During such fifteen minutes and before the opening of the poll, the scrutineers who are entitled to be present in the polling place during polling hours are entitled to have the Counting ballots before opening of poll

ballots intended for use thereat counted in their presence and to inspect the ballots and all other papers, forms and documents relating to the poll. R.S.O. 1960, c. 118, s. 80, *amended*.

Deputy to  
show box  
empty, and  
lock and  
seal it

**73.** The deputy returning officer, before opening the poll, shall show the ballot box to such persons as are present in the polling place so that they may see that it is empty and he shall then lock the box and place a seal as prescribed by the Chief Election Officer upon it in such manner as to prevent its being opened without breaking the seal, and he shall then place and keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed. R.S.O. 1960, c. 118, s. 81, *amended*.

One voter  
only for  
each com-  
partment

**74.** Each voter upon entering the room where the poll is held shall declare his name and place of residence, which particulars shall be entered in the poll book by the poll clerk with a consecutive number being prefixed to the name, and not more than one voter shall enter a voting compartment at one time. R.S.O. 1960, c. 118, s. 82, *amended*.

Persons on  
polling list  
to be  
allowed to  
vote on  
taking oath  
if required

**75.** Subject to sections 59 and 78, the deputy returning officer shall not receive the vote of any person whose name is not entered on the polling list, but shall receive the vote of every person whose name is entered thereon if such person where required by a candidate or scrutineer or by the deputy returning officer, takes the oath of qualification and the oath of allegiance or whichever is required to be taken. R.S.O. 1960, c. 118, s. 83, *amended*.

When  
D.R.O. to  
swear voter

**76.** If a deputy returning officer has reason to believe that a person offering to vote is not a qualified voter or has already voted, or is attempting to vote under a false name or designation or is personating or representing himself falsely as being upon the polling list, the deputy returning officer shall administer the prescribed oath to the voter, whether or not he has been requested to do so. R.S.O. 1960, c. 118, s. 86 (1).

Voters  
refusing to  
be sworn

**77.** A person who has refused to take the oath when required so to do shall not receive a ballot or vote. R.S.O. 1960, c. 118, s. 93 (1), *amended*.

Where  
voter's  
name  
omitted in  
territory  
without  
municipal  
organization

**78.—(1)** In territory without municipal organization, any qualified voter whose name has been omitted in error from the polling list may apply to the deputy returning officer for the polling subdivision in which he resides to have his name added to the list, and his name shall be added to the list,

- (a) if he takes the prescribed oath as to his omission from the list and his eligibility to vote; and
- (b) if he is accompanied by a voter who is resident in the same polling subdivision and whose name is on the polling list and who takes the prescribed oath that,
  - (i) he knows the person whose name has been omitted, and
  - (ii) he believes such person to be duly qualified to be entered on the polling list to vote at the election.

(2) The deputy returning officer, after administering the prescribed oaths, shall cause the applicant's name to be added to the polling list with the word "Sworn" written thereafter. Name to be entered on list

(3) The applicant, upon taking the oath and being vouched for, is entitled to vote. R.S.O. 1960, c. 118, s. 84, *amended*. Right to vote

(4) This section does not apply to an advance poll. *New*. Application to advance poll

**79.** Every person who is entitled to vote shall receive from the deputy returning officer a ballot on the back of which the deputy returning officer has previously put his initials, so placed as indicated thereon that when the ballot is folded they can be seen without opening it. R.S.O. 1960, c. 118, s. 87, *amended*. D.R.O. to put initials on back of ballot

**80.** The deputy returning officer shall, upon the request of the voter, instruct him how to mark and fold his ballot, but without inquiring or seeing for whom he intends to vote, except in the cases provided for by section 84. R.S.O. 1960, c. 118, s. 88. Instructions to voter

**81.** The voter on receiving his ballot shall forthwith proceed into one of the compartments of the polling place and there mark his ballot with a cross or other mark with a pen or pencil within the white circle following the name of the candidate for whom he intends to vote, and shall then fold the ballot so that the initials on the back of it can be seen without opening it, and hand it to the deputy returning officer who shall, without unfolding it, ascertain by examining his initials that it is the same ballot that he gave to the voter, and shall then, in full view of all present, including the voter, place the ballot in the ballot box. R.S.O. 1960, c. 118, s. 91, *amended*. Mode of marking, folding and depositing ballot

Entries to  
be made in  
poll book as  
to voters

**82.** The poll clerk shall enter in the poll book opposite the name of each voter voting the word "Voted" as soon as the ballot has been deposited in the ballot box, and shall enter in the same book the word "Sworn" or "Affirmed" opposite the name of each voter to whom the oath has been administered, and the words "Refused to be Sworn" or "Refused to Affirm" opposite the name of each voter who has refused to take an oath when he has been required so to do. R.S.O. 1960, c. 118, s. 92.

Voters to  
leave as  
soon as  
possible

**83.** A voter shall vote without undue delay and shall leave the polling place as soon as his ballot has been placed in the ballot box. R.S.O. 1960, c. 118, s. 94.

Voter in-  
capacitated  
by blindness,  
etc.

**84.—(1)** On the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in accordance with the other provisions of this Act, the deputy returning officer shall require the voter making the application to take an oath of his incapacity to vote without assistance, and shall thereafter assist the voter by marking his ballot in the manner directed by the voter in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

Blind voter's  
ballot  
marked by  
friend

**(2)** The deputy returning officer shall either deal with a blind voter in the manner provided in subsection 1 or, at the request of any blind voter who has taken the prescribed oath and is accompanied by a friend, shall permit the friend to accompany the blind voter into the voting compartment and mark the voter's ballot for him.

Oath of  
friend

**(3)** Any friend who is permitted to mark the ballot of a blind voter under subsection 2 shall first be required to take an oath that he will keep secret the name of the candidate for whom the ballot of the blind voter is marked by him.

May act as  
friend once  
only

**(4)** No person shall be allowed to act as the friend of more than one blind voter at any polling place other than a polling place established under section 54.

Entry in  
poll book

**(5)** The deputy returning officer shall enter in the column for remarks in the poll book opposite the voter's name the reason why the ballot was marked by him or by a friend of the voter. R.S.O. 1960, c. 118, s. 89, *amended*.

Voters who  
cannot  
understand  
English

**85.** Where a voter does not understand the English language, an interpreter may be sworn in the prescribed form to translate the necessary oaths as well as any lawful questions necessarily put to the voter and his answers, but in



the event of inability to secure an interpreter, the voter shall, for the time being, be refused a ballot. R.S.O. 1960, c. 118, s. 90, *amended*.

**86.** A person who has placed or caused to be placed his ballot in the ballot box, or has delivered it to the deputy returning officer or poll clerk for the purpose of having it placed in the ballot box shall be deemed to have voted. R.S.O. 1960, c. 118, s. 99, *amended*. When person deemed to have voted

**87.** A person who has received a ballot shall not take it out of the polling place, and a person who receives a ballot and leaves the polling place without delivering it to the deputy returning officer, or returns his ballot declining to vote, forfeits his right to vote, and the deputy returning officer shall make an entry in the poll book in the column for remarks to the effect that the person received a ballot but took it out of the polling place or returned it declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "Declined" upon the ballot and preserve it to be returned to the returning officer. R.S.O. 1960, c. 118, s. 96. Voter not to take his ballot from polling place, etc.

**88.** A voter who has inadvertently dealt with his ballot in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer, is entitled to obtain another ballot, and the deputy returning officer shall immediately write the word "Cancelled" upon the first-mentioned ballot and preserve it to be returned to the returning officer. R.S.O. 1960, c. 118, s. 98. When ballot accidentally spoiled

**89.—(1)** If a person representing himself to be a voter applies for a ballot after another person has voted as such voter, he is entitled to receive a ballot and to vote after taking the prescribed oath and otherwise establishing his identity to the satisfaction of the deputy returning officer. Voter who alleges he has been personated

**(2)** The name of the voter shall be entered in the poll book and a note shall be made of his having voted on a second ballot and of the fact of the oath having been taken and of any objections made on behalf of any, and of which, of the candidates. R.S.O. 1960, c. 118, s. 97. Name of voter, etc., to be entered in poll book

#### TIME FOR VOTING

**90.—(1)** Where, by reason of the hours of his employment, an employee who is a qualified voter will not have three consecutive hours to vote while the polls are open on a polling day at an election, his employer shall, at the convenience of the employer, allow the employee such time for voting as is necessary to provide the three consecutive hours. Employees to have three consecutive hours for voting

Deduction  
from pay  
prohibited

(2) No employer shall make any deduction from the pay of any such employee or exact from him any penalty by reason of absence from his work during the time allowed by the employer for voting. R.S.O. 1960, c. 118, s. 10 (1, 2).

#### ELECTION INTERRUPTED

When  
election or  
polling  
is not  
commenced  
or is  
interrupted

**91.** If by reason of riot or other emergency a nomination meeting or the voting at a polling place is not commenced on the proper day or is interrupted after being commenced and before the lawful closing thereof, the returning officer or deputy returning officer, as the case may be, shall hold or resume the election or polling on the following day at 1 p.m. in the case of a nomination meeting, and at 8 a.m. in the case of a polling, and continue the same from day to day, if necessary, until a fair opportunity for nominating candidates has been given or, in the case of polling, until the poll has been opened without interruption and with free access to voters for eleven hours in all. R.S.O. 1960, c. 118, s. 7.

#### EFFECT OF IRREGULARITIES

Irregularities  
not affecting  
result

**92.** No election shall be declared invalid,

- (a) by reason of any irregularity on the part of the returning officer or in any of the proceedings preliminary to the poll;
- (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
- (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or
- (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the tribunal having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election. R.S.O. 1960, c. 118, s. 6 (1).

#### PROCEEDINGS AFTER CLOSE OF POLL

Duties of  
deputy  
returning  
officer after  
close of  
poll

**93.** Immediately after the close of the poll, the deputy returning officer shall place all the cancelled and declined ballots in separate envelopes and seal them up, and shall then count the number of voters whose names appear by the

poll book to have voted and make an entry thereof on the line immediately below the name of the voter who voted last, thus: "The number of voters who voted at this election in this polling place is (stating the number)", and he shall sign his name thereto; then, in the presence and in full view of the persons entitled to be present, he shall open the ballot box and proceed to count the number of votes for each candidate, giving full opportunity to those present to examine each ballot. R.S.O. 1960, c. 118, s. 102.

**94.**—(1) The deputy returning officer shall reject all ballots, herein called "rejected ballots",

What ballots  
to be  
rejected in  
counting  
votes

- (a) that have not been supplied by him; or
- (b) by which votes have been given for more than one candidate; or
- (c) on which more than one mark appears; or
- (d) upon which there is any writing or mark by which the voter can be identified,

but no word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot warrants its rejection. R.S.O. 1960, c. 118, s. 103.

(2) The deputy returning officer shall make a note of every objection taken to a ballot by a candidate or his scrutineer, and shall decide the objection subject to review on recount or on petition questioning the election or return.

Objections  
to be noted,

(3) Each objection shall be numbered and a corresponding number placed on the back of the ballot and initialled by the deputy returning officer. R.S.O. 1960, c. 118, s. 104, *amended*.

numbered  
and  
initialled

**95.**—(1) All the ballots not rejected by the deputy returning officer shall be counted and all the ballots indicating the votes given for each candidate respectively shall be put into separate envelopes and an account shall be kept of the number of ballots cast for each candidate and of the number of rejected and cancelled ballots.

How ballots  
to be  
counted

(2) All rejected and unused ballots shall be put into separate envelopes, which shall be endorsed so as to indicate their contents and sealed by the deputy returning officer, and any agent present may write his signature across the flap of the envelope and may also affix his seal. R.S.O. 1960, c. 118, s. 105, *amended*.

Rejected  
and unused  
ballots

Statement  
of result  
to be made  
by D.R.O.

**96.**—(1) The deputy returning officer shall make out a prescribed statement in triplicate, one part to remain attached to the poll book, the second part to be retained by him, and the third part to be enclosed by him in a special envelope supplied for the purpose, which he shall seal and deposit in the ballot box.

Signatures  
to state-  
ment

(2) The statement shall be signed forthwith by the deputy returning officer and poll clerk and such of the candidates or their scrutineers as may be present who desire to sign it.

Certificate  
of result  
of poll

(3) The deputy returning officer shall then deliver to each of the candidates or their scrutineers a certificate in the prescribed form of the number of ballots cast for each candidate and of the number of rejected ballots. R.S.O. 1960, c. 118, s. 106, *amended*.

Oath of  
poll clerk

**97.** The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe the prescribed oath. R.S.O. 1960, c. 118, s. 107, *amended*.

Poll book,  
envelopes,  
etc., to be  
placed in  
large  
envelope in  
ballot box

**98.** The poll book, polling list, envelopes containing the ballots and all other documents that served at the election shall then be placed in the large envelope supplied for the purpose, which shall then be sealed and placed in the ballot box. R.S.O. 1960, c. 118, s. 108.

Ballot box  
to be  
delivered  
to R.O.

**99.**—(1) The deputy returning officer shall then lock and seal the ballot box and forthwith deliver it personally to the returning officer, and, if he is unable to do so owing to illness or other cause, he shall deliver it to the poll clerk or, where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering it to the returning officer, and shall thereon, or on a ticket attached thereto, write the name of the person to whom the box was delivered, and shall take a receipt therefor, and the poll clerk or person so chosen shall forthwith personally deliver the ballot box to the returning officer and shall take before him the prescribed oath.

Right of  
candidates,  
etc., to be  
present

(2) The candidates, their official agents or scrutineers are entitled to be present when the ballot box is delivered pursuant to subsection 1.

Ballot box  
may be  
forwarded  
by registered  
mail

(3) In lieu of proceeding under subsection 1, after locking and sealing the ballot box, the deputy returning officer may forward it by registered mail to the returning officer.

Oath of  
D.R.O.

(4) As soon as the deputy returning officer has complied with subsection 1 or 3, he shall take and subscribe the prescribed oath and shall personally deliver or send it by registered mail to the returning officer. R.S.O. 1960, c. 118, s. 109.



## PART VI

## AFTER THE POLL

RECEIPT OF BALLOT BOXES BY RETURNING  
OFFICER AND HIS OFFICIAL COUNT

**100.** When the returning officer receives a ballot box, he shall take every precaution for its safekeeping and for preventing any person other than himself and the election clerk from having access to it, and, immediately on the receipt of a ballot box, he shall seal it with the seal as prescribed by the Chief Election Officer in such a way that it cannot be opened without the seal being broken and without effacing or covering the seals affixed to it. R.S.O. 1960, c. 118, s. 110, *amended*.

Duty of  
R.O. on  
receipt of  
boxes

**101.** The returning officer, at the place, day and hour appointed by his proclamation and after having received all the ballot boxes, shall open the ballot boxes, the large envelopes containing the poll books and the envelopes containing the statements of the poll, but shall not open any of the other sealed envelopes, and in the presence of the election clerk and of the candidates or their official agents and scrutineers, if present, shall add up the votes given for each candidate from the statements of the poll contained in the ballot boxes and shall forthwith declare to be elected the candidate having the largest number of votes. R.S.O. 1960, c. 118, s. 111.

Count by  
R.O. and  
declaration  
of result

**102.** If, on the addition of the votes by the returning officer, an equal number of votes is found to have been cast for two or more candidates and an additional vote would entitle one of them to be declared elected, the returning officer shall give the additional or casting vote. R.S.O. 1960, c. 118, s. 112.

Casting  
vote

PROCEEDINGS IN CASE OF NON-RETURN  
OF BALLOT BOXES

**103.** If all the ballot boxes are not returned on the day fixed for adding up the votes, the returning officer shall adjourn the proceedings to a subsequent day, which shall be not more than seven days later than the day originally fixed. R.S.O. 1960, c. 118, s. 113.

Adjourn-  
ment of  
proceedings  
where ballot  
boxes not  
delivered

**104.** If a deputy returning officer has not enclosed in the ballot box the statement of the ballots counted by him as required by this Act, or if for any other cause the returning officer cannot, at the day and hour appointed by him for adding up the votes, ascertain the number of votes given for each candidate, he may adjourn to a future day and hour the

Where  
default  
made by  
D.R.O. in  
returning  
documents

adding up of the votes, and so on from time to time, such adjournment or adjournments not in the aggregate to exceed fourteen days. R.S.O. 1960, c. 118, s. 114.

Disappearance of  
ballot boxes of  
R.O.

**105.** If any of the ballot boxes have been destroyed or lost or, for any other reason, are not forthcoming by the time fixed for adding up the votes, the returning officer shall ascertain the cause and shall procure from each deputy returning officer whose ballot box is missing, or from any other person having them, the statements and certificates of the number of votes given for each candidate, or copies of them, all to be verified by oath. R.S.O. 1960, c. 118, s. 115.

Procedure of  
R.O. where lists,  
statements,  
etc., cannot  
be found

**106.** If the statements and certificates, or any of them, or copies of them, cannot be procured, the returning officer shall ascertain, by such evidence as he is able to obtain, the total number of votes given for each candidate at the several polling places, and may summon any deputy returning officer, poll clerk or other person to appear before him, at a time and place to be named by him, with all necessary papers and documents, and the returning officer shall notify the candidates of the intended proceedings and may examine on oath such deputy returning officer, poll clerk or other person respecting the matter in question. R.S.O. 1960, c. 118, s. 116.

When  
D.R.O. has  
neglected to  
deliver  
statement  
of result

**107.** In case of an adjournment by reason of any deputy returning officer not having placed in the ballot box a statement of the ballots counted by him, the returning officer, in the meantime, shall use all reasonable efforts to ascertain the number of votes given for each candidate at the polling place of such deputy returning officer and has the powers conferred by section 106. R.S.O. 1960, c. 118, s. 117.

Special  
report by  
R.O.

**108.** The returning officer shall return the candidate having the largest number of votes, and shall specify in a report to be sent with the return the circumstances accompanying the disappearance of the ballot boxes, or the want of any statement, and the mode by which he ascertained the number of votes given for each candidate. R.S.O. 1960, c. 118, s. 118.

#### RECOUNT OR FINAL ADDITION BY COUNTY JUDGE

Interpre-  
tation

**109.—(1)** In this section and in sections 110 to 121, “judge” means the judge of the county or district court, and, where there are two or more judges, the senior judge or, in the case of the illness or absence of the senior judge or where the senior judge requests him to act, a junior judge.

Where  
recount may  
be had

**(2)** If, upon the application of a candidate or a voter made within four days after the day on which the returning officer

added the votes for the purpose of declaring a candidate elected, it is made to appear by affidavit to the judge of the court of the county or district in which the electoral district or any part of it is situate,

- (a) that a deputy returning officer has in counting the votes, improperly counted any ballot, improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate; or
- (b) that the returning officer has improperly added up the votes,

and, if the applicant deposits within that time with the clerk of the county or district court the sum of \$100 in legal tender, money order or a cheque drawn upon and accepted by a chartered bank or trust company doing business in Ontario as security for the costs in connection with the recount or final addition of the candidate appearing by the addition to be elected, the judge may appoint a time and place to recount or finally add up the votes cast at the election.

(3) Where the electoral district comprises parts of two or more counties or districts, the application shall be made to the judge of the court of the county or district having the larger population according to the last federal census. What judge to hold recount when district in two or more counties  
 R.S.O. 1960, c. 118, s. 119, *amended*.

(4) Before an application is made to the judge under subsection 2, the applicant shall give notice in writing of the application to the candidates or the other candidates, as the case may be, or their official agents, to the returning officer and to the election clerk. Notice of application

(5) A notice under subsection 4 shall be given by serving it personally on the person to whom it is to be given or by sending it by registered mail addressed to his place of residence. Idem

**110.** At least two days notice in writing of the time and place appointed for the recount or final addition shall be given by the applicant to the candidates, the returning officer and the election clerk, and the judge may, at the time of the application or afterwards, direct that service of the notice upon the candidates, the returning officer and the election clerk may be substitutional or be made by mail or in such other manner as he considers proper. R.S.O. 1960, c. 118, s. 120. Notice of time and place of recount

R.O. to  
withhold  
return

**111.** After the receipt of the notice, the returning officer shall delay making his return to the Chief Election Officer until he receives a certificate from the judge of the result of the recount or final addition, and, upon receipt of the certificate, he shall make his return. R.S.O. 1960, c. 118, s. 121.

Presence  
of clerk  
of county  
or district

**112.** The judge may require the clerk of the county or district court to be present at the time and place appointed. R.S.O. 1960, c. 118, s. 122.

Summoning  
officers to  
be presented  
with  
documents

**113.**—(1) The returning officer and his election clerk shall attend at the time and place appointed with the envelopes containing the ballots or the original statements of the poll, as the case may be.

Production  
and custody  
of ballot  
papers on  
a recount

(2) The ballots and original statements shall continue in the custody of the returning officer, and he is responsible for them subject to any direction that the judge may give with respect thereto. R.S.O. 1960, c. 118, s. 123.

Who to be  
present at  
recount

**114.** The returning officer and the election clerk shall be present at the recount or final addition, and each candidate is entitled to be present and to be represented by not more than two scrutineers, and, except with the permission of the judge, no other person shall be present. R.S.O. 1960, c. 118, s. 124, *amended*.

Procedure  
by judge

**115.** At the time and place appointed and in the presence of such of the persons mentioned in section 114 as are present, the judge shall make his final addition from the statements contained in the ballot boxes returned by the deputy returning officer, or recount all the votes or ballots returned by the deputy returning officers, as the case may be, and shall, in the latter case, open all the sealed envelopes containing,

(a) the used ballots that have been counted;

(b) the rejected ballots;

(c) the cancelled ballots;

(d) the declined ballots; and

(e) the unused ballots. R.S.O. 1960, c. 118, s. 125.

Rules to  
govern  
judge in  
proceedings

**116.** The judge shall, in the case of a recount, proceed according to the rules of the counting of the ballots at the close of the poll by the deputy returning officer and shall verify or correct the statement of the poll. R.S.O. 1960, c. 118, s. 127, *amended*.



**117.**—(1) Upon the completion of the recount, the judge shall seal up all the ballots in their separate envelopes and, upon the completion of his final addition, he shall seal up the original statements in their respective envelopes. Sealing up ballots at close of recount

(2) If either party requests him to do so, the judge shall number on the back the disputed ballots and enclose them in a separate envelope. R.S.O. 1960, c. 118, s. 128. Distinguishing disputed ballots

**118.**—(1) Where a ballot box used at a polling place was not available to the returning officer when he made his decision with respect to the number of votes given for a candidate or where the proper statements or papers were not found in the ballot box, the judge shall, if necessary or required, review the decision of the returning officer. Review of decision of R.O. when ballot box or documents missing

(2) For the purpose of arriving at the facts, the judge has all the powers of the returning officer with regard to the attendance and examination of witnesses or he may act upon the evidence taken by the returning officer. R.S.O. 1960, c. 118, s. 129. Powers of judge

**119.**—(1) The judge shall delay sending his certificate to the returning officer for two days after the completion of the recount or final addition in order to allow for an appeal as provided in section 122. When judge to send in his certificate

(2) If no notice of appeal is given to the judge within two days after the completion of the recount or his final addition, the judge shall certify forthwith the result to the returning officer who shall then declare the candidate having the largest number of votes to be elected. When declaration of result to be given

(3) In the case of an equality of votes, the returning officer shall give the casting vote. R.S.O. 1960, c. 118, s. 130. Casting vote

**120.**—(1) The costs of the recount or final addition are in the discretion of the judge who may order by whom, to whom, including the returning officer and election clerk, and in what manner they shall be paid. Costs

(2) The judge shall tax the costs and shall, as nearly as may be, follow the tariff of costs with respect to proceedings in the Supreme Court. R.S.O. 1960, c. 118, s. 131. Taxing and allowing costs

(3) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates. *New.* Idem

Deposits,  
disposal of

**121.** Where costs are directed to be paid by the applicant, the moneys deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and, if the deposit is insufficient, execution may issue out of the county court upon the judge's order for the balance. R.S.O. 1960, c. 118, s. 132.

#### APPEAL FROM DECISION ON RECOUNT OR FINAL ADDITION

Appeal from  
decision of  
judge

**122.**—(1) Any party may appeal from the decision of the judge who conducted the recount or final addition by giving notice in writing within two days after the completion of the recount or final addition to the opposite party and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Service of  
notice of  
appeal

(2) The notice may be served upon the opposite party personally, or upon the solicitor who acted for him upon the recount or final addition by the judge, personally or at his office, or as a judge of the Supreme Court may direct.

Ballots,  
etc., to be  
forwarded  
to Registrar  
of Supreme  
Court

(3) Where the appeal is limited, the judge who conducted the recount or final addition shall seal up the ballots that are the subject of appeal in a separate packet and shall forward them, together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited, the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate to the returning officer.

Allowing  
copy of  
certificate  
of judge

(4) The judge who conducted the recount or final addition shall, upon request, allow each party to make a copy of the certificate of his findings before it is forwarded to the Registrar.

Appoint-  
ment for  
hearing  
of appeal

(5) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Procedure  
on hearing  
of appeal;  
certificate  
of result

(6) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, or review the final addition, as the case may be, and shall forthwith certify his decision to the judge who conducted the recount or final addition, whose duty it is to conform to the decision and to certify the result without delay to the returning officer.

(7) The judge of the Supreme Court may direct by and to whom, including the returning officer and election clerk, the costs of the appeal shall be paid. R.S.O. 1960, c. 118, s. 133, *amended*. <sup>Costs of appeal</sup>

(8) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates. *New*. <sup>Idem</sup>

#### ELECTION RETURN

**123.**—(1) Immediately after the sixth day following the final addition by him of the number of votes given for each candidate, unless before that time he receives notice that he is required to attend before a judge for the purpose of a recount or final addition of the votes given at the election, and, where there has been a recount or final addition, immediately after the receipt of the certificate of the result, the returning officer shall send his return to the Chief Election Officer that the candidate having the largest number of votes has been duly elected, and shall forward to each of the candidates a duplicate copy thereof. <sup>When return to be made</sup>

(2) The returning officer shall include with his return to the Chief Election Officer a report of his proceedings, in which he shall make any observations he thinks proper as to the state of the ballot boxes or ballots as received by him. R.S.O. 1960, c. 118, s. 134, *amended*. <sup>Report by R.O.</sup>

**124.**—(1) When the returning officer sends his return he shall send by express or registered mail to the Chief Election Officer, enclosed in a box or other covering, securely locked and sealed with the seal as prescribed by the Chief Election Officer, the writ, the list mentioned in subsection 5 of section 58, all the envelopes containing ballots in his possession, declarations of inability to read or to mark, poll books and all other documents sent to him by the deputy returning officers. <sup>R.O. to transmit to C.E.O. the ballots, etc.</sup>

(2) The returning officer shall endorse on the package a description of its contents, the date of the election to which they relate and the name of the electoral district for which the election was held and shall affix to the outside of the package a label showing distinctly the electoral district to which the contents relate and the date of the election. R.S.O. 1960, c. 118, s. 135 (1, 2), *amended*. <sup>Endorsement thereon</sup>

**125.**—(1) The returning officer shall forthwith take and subscribe the prescribed affidavit after sending his return, and it shall be sent forthwith by him to the Chief Election Officer by registered mail. <sup>Oath of R.O. after transmitting return</sup>

Return of  
election  
documents  
and  
unused  
material

(2) The returning officer shall at the same time or within ten days thereafter transmit to the Chief Election Officer in a box or other covering, secured and sealed with the seal as prescribed by the Chief Election Officer all documents, papers and supplies in his possession, all receipts for ballots, a record of all ballots supplied to him by the Chief Election Officer and a complete record of their disposal, and shall, in a separate package, return all ballots not distributed by him to the deputy returning officers and all other unused material.

Endorse-  
ment  
thereon

(3) The returning officer shall paste upon the box or other covering mentioned in subsection 2 a label "Election Documents" and on the package mentioned in subsection 2 a label "Unused Election Material", the name of the electoral district and the date of the election written or printed thereon. R.S.O. 1960, c. 118, s. 135 (4-6), *amended*.

Application  
to compel  
returning  
officer to  
add up  
votes, make  
return, etc.

**126.**—(1) If a returning officer wilfully delays, neglects or refuses,

- (a) to add up the votes;
- (b) to declare to be elected the candidate having the largest number of votes;
- (c) to give his casting vote where he is by law required to do so; or
- (d) to make the return, as required by this Act, of the candidate having the largest number of votes,

and the person aggrieved or the Chief Election Officer or any voter who voted at the election applies to a judge of the Supreme Court for a mandamus commanding the returning officer to perform the duty that is shown to have been not performed, the notice of motion shall be served upon the returning officer and upon the persons who were candidates at the election.

Application  
of R.S.O.  
1960, c. 197

(2) In other respects, *The Judicature Act* and the rules of court made thereunder apply to such application.

Other rights  
and  
remedies

(3) Nothing in this section affects or impairs any other right or remedy of the person aggrieved or of the Chief Election Officer. R.S.O. 1960, c. 118, s. 136, *amended*.

Notice of  
return in  
Ontario  
Gazette

**127.** The Chief Election Officer, on receiving the return of a member elected to the Assembly, shall give notice of the receipt of the return in the next ordinary issue of *The Ontario Gazette*, the date of such receipt and the name of the candidate elected. R.S.O. 1960, c. 118, s. 137.



## CUSTODY OF ELECTION PAPERS

**128.**—(1) The Chief Election Officer shall retain in his possession the documents transmitted to him by the returning officer under sections 124 and 125 for at least one year, and, if the election is contested, then for one year after the termination of the contestation. How long to be retained and when to be destroyed

(2) The Chief Election Officer shall keep the documents relating to a general election in a room or vault separate from that in which the documents relating to by-elections are kept. How to be kept by C.E.O.

(3) If notice of the presentation of a petition under *The Controverted Elections Act* is received by the Chief Election Officer or if an order is made directing that documents relating to an election are not to be destroyed, he shall affix to the outside of the box or covering containing such documents a label having thereon in large and distinct letters the words "NOT TO BE DESTROYED". R.S.O. 1960, c. 118, s. 138. When documents not to be destroyed R.S.O. 1960, c. 65

## INSPECTION OF DOCUMENTS AND BALLOTS

**129.** All documents forwarded by a returning officer in pursuance of this Act to the Chief Election Officer, other than ballots, shall be open to public inspection at such time and under such conditions and rules as are made by him, and he shall supply copies of or extracts from the documents to any person demanding them on payment of the prescribed fee, and in computing the number of words a figure shall be counted as a word. R.S.O. 1960, c. 118, s. 139, *amended*. Inspection of documents

**130.**—(1) No person shall be allowed to inspect any ballot in the custody of the Chief Election Officer except under an order of a judge of the Supreme Court. Inspection to be under order of judge

(2) The order may be made on the judge being satisfied by affidavit or other evidence on oath that the inspection or production of the ballot is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballots or for the purpose of a petition questioning an election or return. When order to be granted

(3) The order may be made subject to such conditions as the judge thinks proper. Conditions of order

(4) Subject to the order, the inspection shall take place under the immediate supervision of the Registrar of the Supreme Court, and he shall be present during the inspection, and, so long as the ballots are in the custody of the Registrar Where inspection takes place

and not under inspection, they shall be kept in a secure place under lock and key. R.S.O. 1960, c. 118, s. 140.

Evidence  
as to  
documents,  
ballots, etc.,  
in certain  
cases

**131.** Where an order is made by a judge of the Supreme Court for the production by the Chief Election Officer of any document in his possession relating to an election, the production of it by him, in such manner as is directed by the order, is evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballots so produced is evidence that the contents are what they are stated to be by the endorsement. R.S.O. 1960, c. 118, s. 141.

Inspection of  
documents  
under order  
of Privileges  
and  
Elections  
Committee

**132.** Notwithstanding the provisions of this or any other Act, all documents, including used and unused ballots, relating to an election in the custody of the Chief Election Officer or of any other person may be opened, inspected and examined under such conditions and rules as are made by the Committee on Privileges and Elections of the Assembly for the purpose of inquiring into any matter referred to the Committee by order of the Assembly, and, upon any such proceeding before the Committee, any such document may be filed as an exhibit, and any person summoned to attend and give evidence before the Committee upon such inquiry may be examined or cross-examined in relation thereto. R.S.O. 1960, c. 118, s. 142 (1).

## PART VII

### OFFENCES, PENALTIES AND ENFORCEMENT

Voting  
when not  
qualified  
or more  
than once

**133.** Every person who,

(a) not being qualified to vote, votes; or

(b) being qualified to vote, votes more than once at an election,

is guilty of an offence and of a corrupt practice, and on summary conviction is liable to a fine of not more than \$1,000. R.S.O. 1960, c. 118, s. 163, *amended*

Offences  
for improper  
voting by  
proxy

**134.** Every person,

(a) who, having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force; or

(b) who, having been appointed a voting proxy at an election, votes or attempts to vote at the election

under the authority of the proxy when he knows or has reasonable grounds for supposing that his appointment has been cancelled or that the voter who made the appointment is dead or is no longer entitled to vote,

is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000. R.S.O. 1960, c. 118, s. 78 (10), *amended*.

**135.**—(1) Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise makes up a false statement of the poll is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000. R.S.O. 1960, c. 118, s. 181, *amended*. Wilful  
miscount  
of ballots

(2) Every returning officer, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act, is guilty of an offence and, on summary conviction is liable to a fine of not more than \$1,000. R.S.O. 1960, c. 118, s. 180 (2), *amended*. Neglect of  
duties

**136.** Every returning officer, deputy returning officer or other person whose duty it is to deliver poll books or who has the custody of a certified list of voters or of a polling list or poll book, who wilfully makes any alteration or insertion in or omission from or in any way wilfully falsifies such list of voters, polling list or poll book is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000. R.S.O. 1960, c. 118, s. 177, *amended*. Wilful  
alteration  
of lists  
or poll  
book

**137.** Every person who,

- (a) alters, defaces or destroys a ballot or the initials of the deputy returning officer thereon;
- (b) without authority, supplies a ballot to any person;
- (c) places in a ballot box a paper other than the ballot that he is authorized by law to place therein;
- (d) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (e) takes a ballot out of the polling place;

Offences  
relating to  
ballot  
papers

- (f) without authority, destroys, takes, opens or otherwise interferes with a ballot box or books or packet of ballots or a ballot in use or used for the purpose of an election;
- (g) being a deputy returning officer, knowingly puts his initials on the back of any paper purporting to be or capable of being used as a ballot at an election;
- (h) not being a person authorized by the Chief Election Officer, prints any ballot or what purports to be or is capable of being used as a ballot at an election;
- (i) being authorized by the Chief Election Officer to print the ballots for an election, prints more ballots than he is authorized to print; or
- (j) attempts to commit any offence mentioned in this section,

is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000. R.S.O. 1960, c. 118, s. 178, *amended*.

Wilful  
destruction  
of documents  
relating to  
elections

**138.**—(1) Every person who wilfully destroys, injures or obliterates, or causes to be destroyed, injured or obliterated, a writ of election, return to a writ of election, poll book, list of voters, polling list, certificate or affidavit, or other document or paper made, prepared or drawn according to or for the purpose of meeting the requirements of this Act, or any of them, is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000.

Counselling  
destruction  
of  
documents

(2) Every person who aids, abets, counsels or procures the commission of a contravention of subsection 1 is guilty of an offence and of a corrupt practice and on summary conviction is liable to a fine of not more than \$1,000. R.S.O. 1960, c. 118, s. 179, *amended*.

False  
information  
to author-  
ized persons

**139.** Any person who, knowingly furnishes false or misleading information to any person who by this Act is authorized to obtain information is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. *New*.

Penalty for  
default in  
delivering  
statement

**140.**—(1) Every official agent or candidate who makes default in delivering the statements required by Part VIII to the returning officer is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.



(2) Every official agent or candidate who wilfully furnishes an untrue statement to the returning officer is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. R.S.O. 1960, c. 118, s. 191 (3, 4), *amended*. <sup>Penalty for false statement</sup>

**141.** Every person who contravenes any of the provisions of this Act is guilty of an offence and on summary conviction, where a fine is not otherwise provided for such contravention by this Act, is liable to a fine of not more than \$1,000. *New*. <sup>General offence</sup>

## PART VIII

### ELECTION EXPENSES AND FEES

**142.**—(1) No contribution, payment, loan, gift, advance or deposit of money or its equivalent in excess of \$50 shall be received by or on behalf of a candidate and no payment, except with respect to the personal expenses of a candidate, and no advance, loan or deposit shall be made by or on behalf of a candidate before, during or after the election, on account of the election, otherwise than through his official agent. <sup>Payments not to be made except through official agent</sup>

(2) In this section “personal expenses”, which may be lawfully paid by a candidate personally, includes the following expenses: <sup>Interpretation</sup>

1. Reasonable and ordinary rent for hire of halls or other places used by the candidate personally in which to address public meetings of voters, and the expenses incurred in heating, lighting and cleaning such halls or other places.
2. Reasonable and ordinary travelling and living expenses of the candidate.
3. Reasonable and ordinary travelling and living expenses of one speaker for each meeting who accompanies the candidate and travels with him for the purpose of speaking at a public meeting to be addressed by the candidate.
4. Reasonable and ordinary charges for the hire of conveyances for the use of the candidate.
5. Reasonable and ordinary charges for use by the candidate personally of not more than one conveyance on the polling day.

(3) The onus of showing that the personal expenses paid by the candidate were fair, reasonable and proper and not in excess of what is ordinarily paid for similar services and accommodation is upon the candidate. <sup>Burden of proof</sup>

Receipt of  
ordinary  
and reason-  
able charges  
when not to  
disqualify  
voter

(4) The contracting for or the receipt of the ordinary and reasonable charges,

- (a) by the owner or possessor of a hall or room in which to hold public meetings for the purposes of the election;
- (b) by a printer for printing lists of voters, election addresses or advertisements or notices of election meetings; or
- (c) by a regularly established livery-keeper for the hire of vehicles used in connection with and for the proper purposes of the election and not for carrying voters otherwise than by the candidate as provided by paragraph 5 of subsection 2,

is lawful and does not disqualify him from voting. R.S.O. 1960, c. 118, s. 188, *amended*.

Claims on  
candidates

**143.**—(1) Every person who has any claim against a candidate for or in respect of an election shall send it, within sixty days from the day of the declaration of the result of the election, to the official agent of the candidate, otherwise he is barred of his right to recover it.

Case of  
death of  
person  
making  
claim

(2) In case of the death within such period of the person having the claim, his legal representative shall send it, within one month after probate or administration has been obtained, to the official agent of the candidate, otherwise the right to recover it is barred.

Case of  
death of  
agent

(3) In the case of the death of the official agent or of his incapacity to act and no other agent having been appointed, the claim may be sent to the candidate.

Candidate  
must  
authorize  
payment

(4) No such claim shall be paid without the authority of the candidate. R.S.O. 1960, c. 118, s. 189.

Payment of  
accounts

**144.**—(1) Notwithstanding section 143, any claim that would have been payable if sent within sixty days of the day of the declaration of the result of the election may be paid by the candidate through his official agent after that time if the claim is approved by a judge of the Supreme Court.

Advertising  
claims

(2) All claims allowed by a judge shall within one week thereafter be advertised by the returning officer at the expense of the candidate in the same newspapers in which the statement of the other election expenses was published. R.S.O. 1960, c. 118, s. 190, *amended*.

**145.**—(1) A detailed statement of all money exceeding \$50 or its equivalent received as an election contribution, payment, loan, gift, advance or deposit and a detailed statement of all election expenses incurred by or on behalf of a candidate, including payments in respect of his personal expenses, shall, within three months after the election or, where, by reason of the death of a creditor, no claim has been sent in within such period of three months, then within one month after the claim has been sent in, be made out and signed by the official agent who has paid them or by the candidate in case of payments made by him, and delivered, with the bills and vouchers relating thereto, to the returning officer.

Statement of election expenses, etc., to be sent by agent to R.O.

(2) The returning officer, within fourteen days after receiving the statements, shall publish at the expense of the candidate an abstract thereof in a newspaper published or circulated in the electoral district. R.S.O. 1960, c. 118, s. 191 (1, 2).

Abstract thereof to be published

(3) The returning officer shall preserve all such statements and vouchers, and shall, during the six months next after they have been delivered to him, permit any voter to inspect them on payment of a fee of 25 cents. R.S.O. 1960, c. 118, s. 192.

R.O. to preserve bills, etc., and allow inspection

**146.**—(1) The fees and expenses to be allowed to the returning officers and other officers and persons for services performed under this Act, so far as they are payable by the Province of Ontario, are payable out of the Consolidated Revenue Fund.

Payment of expenses of Act

(2) For the purpose of providing funds for the payment of such fees and expenses, the Lieutenant Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accountable warrants

(3) The sums paid out under subsection 1 shall be duly accounted for by the production of accounts and vouchers but it is not necessary that such accounts or vouchers be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the same person, unless the Lieutenant Governor in Council otherwise directs.

Accounts and audit

(4) All accounts respecting such fees and expenses shall be audited by the Provincial Auditor. R.S.O. 1960, c. 118, s. 193, *amended.*

Audit by Provincial Auditor

**147.** The Lieutenant Governor in Council may make regulations,

Regulations



- (a) prescribing the fees and expenses to be allowed to the officers and other persons, except those in the office of the Chief Election Officer, for their services and disbursements under this Act; and
- (b) prescribing the costs that shall be paid by the Province of Ontario under sections 120 and 122. R.S.O. 1960, c. 118, s. 193 (1), *amended*.

R.S.O. 1960,  
c. 118,  
repealed

**148.** *The Election Act* is repealed.

Commence-  
ment

**149.** This Act comes into force on the day it receives Royal Assent.

Short title

**150.** This Act may be cited as *The Election Act, 1968-69*.





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